

SENATE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 555

AN ACT

To repeal sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.101, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 301.143, 332.021, 334.120, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, RSMo, and to enact in lieu thereof eighty-seven new sections relating to health care policies, with existing penalty provisions.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Sections 8.241, 178.900, 189.010, 189.065,  
2   192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.101,  
3   210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207,  
4   211.447, 301.143, 332.021, 334.120, 453.070, 475.121, 475.355,  
5   476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005,  
6   630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167,

630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510,  
630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005,  
632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005,  
633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110,  
633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145,  
633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210,  
633.300, 633.303, and 633.309, RSMo, are repealed and eighty-  
seven new sections enacted in lieu thereof, to be known as  
sections 8.241, 162.946, 178.900, 189.010, 189.065, 192.005,  
198.012, 205.968, 208.151, 208.184, 208.275, 208.955, 210.101,  
210.105, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206,  
211.207, 211.447, 301.143, 332.021, 334.120, 453.070, 475.121,  
475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003,  
630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165,  
630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425,  
630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735,  
632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380,  
633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050,  
633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140,  
633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190,  
633.210, 633.300, 633.303, and 633.309, to read as follows:

8.241. 1. In addition to other provisions of law relating  
to title to and conveyance of real property by the state, and  
notwithstanding any provisions of chapter 8 to the contrary, if  
the state should ever purchase or otherwise acquire ownership of  
real property located in a city not within a county as described  
in subsection 2 of this section, the state shall:

(1) Use, operate and maintain such property in full

1 compliance with all applicable deed restrictions encumbering the  
2 property;

3 (2) Operate, maintain and use the property exclusively by  
4 the department of mental health for the purpose of housing no  
5 more than six employed and employable [mentally retarded or  
6 developmentally disabled] adults with an intellectual disability  
7 or developmental disability, and for no other purpose and by no  
8 other state agency, in whole or in part;

9 (3) Not sell or otherwise transfer ownership of the  
10 property, unless such property is sold or transferred solely for  
11 private, single-family residential use, which shall not be deemed  
12 to include, without limitation, any sale, transfer or conveyance  
13 of ownership of the property to any other state agency or  
14 department or program.

15 2. The property subject to the provisions of this section  
16 is more particularly described as follows: A parcel of real  
17 estate situated in Lot 20 in Block A of Compton Heights and in  
18 Block No. 1365 of the City of St. Louis, fronting 100 feet 0-3/8  
19 inches on the North line of Longfellow Boulevard by a depth  
20 Northwardly on the east line of a 160 square foot and 159 feet 5  
21 inches on the West line to the North line of said lot on which  
22 there is a frontage of 100 feet bounded East by Compton Avenue  
23 together with all improvements thereon, known as and numbered  
24 3205 Longfellow Boulevard.

25 162.946. 1. Each district school board may require schools  
26 within the district to provide disability history and awareness  
27 instruction in all K-12 public schools during the month of  
28 October of each year. The month of October shall be designated

1 "Disability History and Awareness Month".

2 2. During disability history and awareness month, students  
3 may be provided instruction to expand their knowledge,  
4 understanding, and awareness of individuals with disabilities,  
5 the history of disability, and the disability rights movement.

6 3. Disability history may include the events and time lines  
7 of the development and evolution of services to, and the civil  
8 rights of, individuals with disabilities. Disability history may  
9 also include the contributions of specific individuals with  
10 disabilities, including the contributions of acknowledged  
11 national leaders. The instruction may be integrated into the  
12 existing school curriculum in ways including, but not limited to,  
13 supplementing lesson plans, inviting classroom and assembly  
14 speakers with experience or expertise on disabilities, or  
15 providing other school-related activities. The instruction may  
16 be delivered by qualified school personnel or by knowledgeable  
17 guest speakers.

18 4. The goals of the disability history and awareness  
19 instruction include:

20 (1) Instilling in students sensitivity for fellow students  
21 with disabilities and encouraging educational cultures that  
22 nurture safe and inclusive environments for students with  
23 disabilities in which bullying is discouraged and respect and  
24 appreciation for students with disabilities is encouraged;

25 (2) An understanding that disability is a natural part of  
26 the human experience; we are all more alike than different; and  
27 regardless of disability, every citizen is afforded the same  
28 rights and responsibilities as that of any other;

1       (3) The creation of a more inclusive school community,  
2       where students with disabilities are included in every aspect of  
3       society, and every student is acknowledged for their unique  
4       gifts, talents, and contributions; and

5       (4) Reaffirmation of the local, state, and federal  
6       commitment to the full inclusion in society of, and the equal  
7       opportunity for, all individuals with disabilities.

8  
9       The department of elementary and secondary education may identify  
10       and adopt preliminary guidelines for each district school board  
11       to use to develop its curriculum that incorporates these goals  
12       for the disability history and awareness instruction. In respect  
13       of local control, school districts are encouraged to exercise  
14       innovation that accomplishes the above-stated goals.

15       5. Institutions of higher education within the state are  
16       encouraged to conduct and promote activities on individual  
17       campuses that provide education, understanding, and awareness of  
18       individuals with disabilities.

19       178.900. For the purposes of sections 178.900 to [178.970]  
20       178.960 the following words mean:

21       (1) "Department", the department of elementary and  
22       secondary education;

23       (2) "[Handicapped] Disabled persons", a lower range  
24       educable or upper range trainable [mentally retarded]  
25       developmentally disabled or other [handicapped] disabled person  
26       sixteen years of age or over who has had school training and has  
27       a productive work capacity in a sheltered environment adapted to  
28       the abilities of [the mentally retarded] persons with a

1 developmental disability but whose limited capabilities make him  
2 or her nonemployable in competitive business and industry and  
3 unsuited for vocational rehabilitation training;

4 (3) "Sheltered workshop", an occupation-oriented facility  
5 operated by a not-for-profit corporation, which, except for its  
6 staff, employs only [handicapped] persons with disabilities and  
7 has a minimum enrollment of at least fifteen employable  
8 [handicapped] persons with disabilities;

9 (4) "Staff", employees of a sheltered workshop engaged in  
10 management, work procurement, purchasing, supervision, sales,  
11 bookkeeping, and secretarial and clerical functions.

12 189.010. 1. As used in sections 189.010 to 189.085, unless  
13 the context clearly indicates otherwise, the following terms  
14 mean:

15 (1) "Approved provider", hospitals, clinics, laboratories,  
16 or other health personnel or facilities meeting standards to be  
17 established under the provisions of sections 189.010 to 189.085;

18 (2) "Department", the department of social services of the  
19 state of Missouri;

20 (3) "Director", the director of the department of social  
21 services of the state of Missouri or his duly authorized  
22 representative;

23 (4) "High risk patient", a woman of childbearing age who  
24 has any condition, or is at risk of developing some condition,  
25 medically or otherwise known to predispose to premature birth or  
26 to produce [mental retardation] developmental disability; or any  
27 infant or child who has any condition, or is at risk of  
28 developing some condition, medically known to predispose to

1     [mental retardation] developmental disability;

2           (5)   "Person", any individual, firm, partnership,  
3     association, corporation, company, group of individuals acting  
4     together for a common purpose or organization of any kind,  
5     including any governmental agency other than the United States or  
6     the state of Missouri;

7           (6)   "Region", contiguous geographic areas of the state  
8     larger than single counties where health programs including  
9     special services for high risk patients can be developed  
10    efficiently and economically;

11          (7)   "Service", any medical, surgical, corrective,  
12    diagnostic procedure, or hospitalization, and related activity to  
13    correct high risk conditions including all things reasonably  
14    incident and necessary to make the service available to the high  
15    risk patient;

16          (8)   "Special services", diagnostic and treatment services  
17    which may not be efficiently or economically developed as a  
18    regular component of a hospital or clinic either because of high  
19    cost or infrequent demand but which may be required for high risk  
20    patients; such services would include, but not be limited to,  
21    intensive care units for the care of premature infants and  
22    intra-uterine fetal monitoring.

23          2.    Expenditures for the operation of a hospital include,  
24    but are not limited to, amounts paid in connection with inpatient  
25    care in the hospital; ambulatory or emergency care provided by  
26    the hospital; ambulance services used in the transportation of  
27    patients to the hospital or among hospitals; administration of  
28    the hospital; maintenance and repairs of the hospital;

1 depreciation of hospital capital assets; food, drugs, equipment  
2 and other supplies used by the hospital; and recruitment,  
3 selection and training of physician, nursing, allied health and  
4 other hospital personnel.

5 3. Funds approved under the provisions of sections 189.010  
6 to 189.085 are not restricted for paying certain operating costs,  
7 or groups of costs, but are intended to supplement the  
8 appropriations from the local governmental agency for poor  
9 patients. Patients eligible for Medicare, Medicaid and other  
10 third party insurance are not eligible under this chapter.

11 189.065. The department is authorized and directed to work  
12 with public and private institutions and agencies or persons to  
13 insure that special services will be available in all regions of  
14 the state, both rural and metropolitan. Whenever services or  
15 special services required for the purposes of sections 189.010 to  
16 189.085 are not available, the department is authorized to use up  
17 to ten percent of the funds appropriated for the purposes of  
18 sections 189.010 to 189.085 to assist in establishing the  
19 facilities and professional staff required. For the purposes of  
20 implementing this section, the department and the advisory  
21 committees shall give special consideration to those areas of the  
22 state or population groups which demonstrate the highest  
23 incidence of [mental retardation] developmental disability or  
24 where accessibility to services or special services may be  
25 limited because of distance.

26 192.005. There is hereby created and established as a  
27 department of state government the "Department of Health and  
28 Senior Services". The department of health and senior services



1 shall supervise and manage all public health functions and  
2 programs. The department shall be governed by the provisions of  
3 the Omnibus State Reorganization Act of 1974, Appendix B, RSMo,  
4 unless otherwise provided in sections 192.005 to 192.014. The  
5 division of health of the department of social services, chapter  
6 191, this chapter, and others, including, but not limited to,  
7 such agencies and functions as the state health planning and  
8 development agency, the crippled children's service, chapter 201,  
9 the bureau and the program for the prevention of [mental  
10 retardation] developmental disability, the hospital subsidy  
11 program, chapter 189, the state board of health, section 191.400,  
12 the student loan program, sections 191.500 to 191.550, the family  
13 practice residency program, [sections 191.575 to 191.590,] the  
14 licensure and certification of hospitals, chapter 197, the  
15 Missouri chest hospital, sections 199.010 to 199.070, are hereby  
16 transferred to the department of health and senior services by a  
17 type I transfer, and the state cancer center and cancer  
18 commission, chapter 200, is hereby transferred to the department  
19 of health and senior services by a type III transfer as such  
20 transfers are defined in section 1 of the Omnibus State  
21 Reorganization Act of 1974, Appendix B, RSMo Supp. 1984. The  
22 provisions of section 1 of the Omnibus State Reorganization Act  
23 of 1974, Appendix B, RSMo Supp. 1984, relating to the manner and  
24 procedures for transfers of state agencies shall apply to the  
25 transfers provided in this section. The division of health of  
26 the department of social services is abolished.

27 198.012. 1. The provisions of sections 198.003 to 198.136  
28 shall not apply to any of the following entities:

1           (1) Any hospital, facility or other entity operated by the  
2 state or the United States;

3           (2) Any facility or other entity otherwise licensed by the  
4 state and operating exclusively under such license and within the  
5 limits of such license, unless the activities and services are or  
6 are held out as being activities or services normally provided by  
7 a licensed facility under sections 198.003 to 198.186, 198.200,  
8 208.030, and 208.159, except hospitals licensed under the  
9 provisions of chapter 197;

10          (3) Any hospital licensed under the provisions of chapter  
11 197, provided that the assisted living facility, intermediate  
12 care facility or skilled nursing facility are physically attached  
13 to the acute care hospital; and provided further that the  
14 department of health and senior services in promulgating rules,  
15 regulations and standards pursuant to section 197.080, with  
16 respect to such facilities, shall establish requirements and  
17 standards for such hospitals consistent with the intent of this  
18 chapter, and sections 198.067, 198.070, 198.090, 198.093 and  
19 198.139 to 198.180 shall apply to every assisted living facility,  
20 intermediate care facility or skilled nursing facility regardless  
21 of physical proximity to any other health care facility;

22          (4) Any facility licensed pursuant to sections 630.705 to  
23 630.760 which provides care, treatment, habilitation and  
24 rehabilitation exclusively to persons who have a primary  
25 diagnosis of mental disorder, mental illness, [mental  
26 retardation] or developmental disabilities, as defined in section  
27 630.005;

28          (5) Any provider of care under a life care contract, except

1 to any portion of the provider's premises on which the provider  
2 offers services provided by an intermediate care facility or  
3 skilled nursing facility as defined in section 198.006. For the  
4 purposes of this section, "provider of care under a life care  
5 contract" means any person contracting with any individual to  
6 furnish specified care and treatment to the individual for the  
7 life of the individual, with significant prepayment for such care  
8 and treatment.

9 2. Nothing in this section shall prohibit any of these  
10 entities from applying for a license under sections 198.003 to  
11 198.136.

12 205.968. 1. As set forth in section 205.971, when a levy  
13 is approved by the voters, the governing body of any county or  
14 city not within a county of this state shall establish a board of  
15 directors. The board of directors shall be a legal entity  
16 empowered to establish and/or operate a sheltered workshop as  
17 defined in section 178.900, residence facilities, or related  
18 services, for the care or employment, or both, of [handicapped]  
19 persons with a disability. The facility may operate at one or  
20 more locations in the county or city not within a county. Once  
21 established, the board may, in its own name engage in and  
22 contract for any and all types of services, actions or endeavors,  
23 not contrary to the law, necessary to the successful and  
24 efficient prosecution and continuation of the business and  
25 purposes for which it is created, and may purchase, receive,  
26 lease or otherwise acquire, own, hold, improve, use, sell,  
27 convey, exchange, transfer, and otherwise dispose of real and  
28 personal property, or any interest therein, or other assets

1 wherever situated and may incur liability and may borrow money at  
2 rates of interest up to the market rate published by the Missouri  
3 division of finance. The board shall be taken and considered as  
4 a "political subdivision" as the term is defined in section  
5 70.600 for the purposes of sections 70.600 to 70.755.

6 2. Services may only be provided for those persons defined  
7 as [handicapped] persons with a disability in section 178.900 and  
8 those persons defined as [handicapped] persons with a disability  
9 in this section whether or not employed at the facility or in the  
10 community, and for persons who are [handicapped] disabled due to  
11 developmental disability. Persons having substantial functional  
12 limitations due to a mental illness as defined in section 630.005  
13 shall not be eligible for services under the provisions of  
14 sections 205.968 to 205.972 except that those persons may  
15 participate in services under the provisions of sections 205.968  
16 to 205.972. All persons otherwise eligible for facilities or  
17 services under this section shall be eligible regardless of their  
18 age; except that, individuals employed in sheltered workshops  
19 must be at least sixteen years of age. The board may, in its  
20 discretion, impose limitations with respect to individuals to be  
21 served and services to be provided. Such limitations shall be  
22 reasonable in the light of available funds, needs of the persons  
23 and community to be served as assessed by the board, and the  
24 appropriateness and efficiency of combining services to persons  
25 with various types of [handicaps or] disabilities.

26 3. For the purposes of sections 205.968 to 205.972, the  
27 term

28 (1) "Developmental disability" shall mean either or both

paragraph (a) or (b) of this subsection:

(a) A disability which is attributable to mental retardation, cerebral palsy, autism, epilepsy, a learning disability related to a brain dysfunction or a similar condition found by comprehensive evaluation to be closely related to such conditions, or to require habilitation similar to that required for mentally retarded persons; and

a. Which originated before age eighteen; and

b. Which can be expected to continue indefinitely;

(b) A developmental disability as defined in section 630.005;

(2) "[Handicapped] Person with a disability" shall mean a person who is lower range educable or upper range trainable mentally retarded or a person who has a developmental disability.

208.151. 1. Medical assistance on behalf of needy persons shall be known as "MO HealthNet". For the purpose of paying MO HealthNet benefits and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301, et seq.) as amended, the following needy persons shall be eligible to receive MO HealthNet benefits to the extent and in the manner hereinafter provided:

(1) All participants receiving state supplemental payments for the aged, blind and disabled;

(2) All participants receiving aid to families with dependent children benefits, including all persons under nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of subsection 1 of section 208.040. Participants eligible under this subdivision

1 who are participating in drug court, as defined in section  
2 478.001, shall have their eligibility automatically extended  
3 sixty days from the time their dependent child is removed from  
4 the custody of the participant, subject to approval of the  
5 Centers for Medicare and Medicaid Services;

6 (3) All participants receiving blind pension benefits;

7 (4) All persons who would be determined to be eligible for  
8 old age assistance benefits, permanent and total disability  
9 benefits, or aid to the blind benefits under the eligibility  
10 standards in effect December 31, 1973, or less restrictive  
11 standards as established by rule of the family support division,  
12 who are sixty-five years of age or over and are patients in state  
13 institutions for mental diseases or tuberculosis;

14 (5) All persons under the age of twenty-one years who would  
15 be eligible for aid to families with dependent children except  
16 for the requirements of subdivision (2) of subsection 1 of  
17 section 208.040, and who are residing in an intermediate care  
18 facility, or receiving active treatment as inpatients in  
19 psychiatric facilities or programs, as defined in 42 U.S.C.  
20 1396d, as amended;

21 (6) All persons under the age of twenty-one years who would  
22 be eligible for aid to families with dependent children benefits  
23 except for the requirement of deprivation of parental support as  
24 provided for in subdivision (2) of subsection 1 of section  
25 208.040;

26 (7) All persons eligible to receive nursing care benefits;

27 (8) All participants receiving family foster home or  
28 nonprofit private child-care institution care, subsidized

1 adoption benefits and parental school care wherein state funds  
2 are used as partial or full payment for such care;

3 (9) All persons who were participants receiving old age  
4 assistance benefits, aid to the permanently and totally disabled,  
5 or aid to the blind benefits on December 31, 1973, and who  
6 continue to meet the eligibility requirements, except income, for  
7 these assistance categories, but who are no longer receiving such  
8 benefits because of the implementation of Title XVI of the  
9 federal Social Security Act, as amended;

10 (10) Pregnant women who meet the requirements for aid to  
11 families with dependent children, except for the existence of a  
12 dependent child in the home;

13 (11) Pregnant women who meet the requirements for aid to  
14 families with dependent children, except for the existence of a  
15 dependent child who is deprived of parental support as provided  
16 for in subdivision (2) of subsection 1 of section 208.040;

17 (12) Pregnant women or infants under one year of age, or  
18 both, whose family income does not exceed an income eligibility  
19 standard equal to one hundred eighty-five percent of the federal  
20 poverty level as established and amended by the federal  
21 Department of Health and Human Services, or its successor agency;

22 (13) Children who have attained one year of age but have  
23 not attained six years of age who are eligible for medical  
24 assistance under 6401 of P.L. 101-239 (Omnibus Budget  
25 Reconciliation Act of 1989). The family support division shall  
26 use an income eligibility standard equal to one hundred  
27 thirty-three percent of the federal poverty level established by  
28 the Department of Health and Human Services, or its successor

1 agency;

2 (14) Children who have attained six years of age but have  
3 not attained nineteen years of age. For children who have  
4 attained six years of age but have not attained nineteen years of  
5 age, the family support division shall use an income assessment  
6 methodology which provides for eligibility when family income is  
7 equal to or less than equal to one hundred percent of the federal  
8 poverty level established by the Department of Health and Human  
9 Services, or its successor agency. As necessary to provide MO  
10 HealthNet coverage under this subdivision, the department of  
11 social services may revise the state MO HealthNet plan to extend  
12 coverage under 42 U.S.C. 1396a (a) (10) (A) (i) (III) to children who  
13 have attained six years of age but have not attained nineteen  
14 years of age as permitted by paragraph (2) of subsection (n) of  
15 42 U.S.C. 1396d using a more liberal income assessment  
16 methodology as authorized by paragraph (2) of subsection (r) of  
17 42 U.S.C. 1396a;

18 (15) The family support division shall not establish a  
19 resource eligibility standard in assessing eligibility for  
20 persons under subdivision (12), (13) or (14) of this subsection.  
21 The MO HealthNet division shall define the amount and scope of  
22 benefits which are available to individuals eligible under each  
23 of the subdivisions (12), (13), and (14) of this subsection, in  
24 accordance with the requirements of federal law and regulations  
25 promulgated thereunder;

26 (16) Notwithstanding any other provisions of law to the  
27 contrary, ambulatory prenatal care shall be made available to  
28 pregnant women during a period of presumptive eligibility



1 pursuant to 42 U.S.C. Section 1396r-1, as amended;

2 (17) A child born to a woman eligible for and receiving MO  
3 HealthNet benefits under this section on the date of the child's  
4 birth shall be deemed to have applied for MO HealthNet benefits  
5 and to have been found eligible for such assistance under such  
6 plan on the date of such birth and to remain eligible for such  
7 assistance for a period of time determined in accordance with  
8 applicable federal and state law and regulations so long as the  
9 child is a member of the woman's household and either the woman  
10 remains eligible for such assistance or for children born on or  
11 after January 1, 1991, the woman would remain eligible for such  
12 assistance if she were still pregnant. Upon notification of such  
13 child's birth, the family support division shall assign a MO  
14 HealthNet eligibility identification number to the child so that  
15 claims may be submitted and paid under such child's  
16 identification number;

17 (18) Pregnant women and children eligible for MO HealthNet  
18 benefits pursuant to subdivision (12), (13) or (14) of this  
19 subsection shall not as a condition of eligibility for MO  
20 HealthNet benefits be required to apply for aid to families with  
21 dependent children. The family support division shall utilize an  
22 application for eligibility for such persons which eliminates  
23 information requirements other than those necessary to apply for  
24 MO HealthNet benefits. The division shall provide such  
25 application forms to applicants whose preliminary income  
26 information indicates that they are ineligible for aid to  
27 families with dependent children. Applicants for MO HealthNet  
28 benefits under subdivision (12), (13) or (14) of this subsection

1 shall be informed of the aid to families with dependent children  
2 program and that they are entitled to apply for such benefits.  
3 Any forms utilized by the family support division for assessing  
4 eligibility under this chapter shall be as simple as practicable;

5 (19) Subject to appropriations necessary to recruit and  
6 train such staff, the family support division shall provide one  
7 or more full-time, permanent eligibility specialists to process  
8 applications for MO HealthNet benefits at the site of a health  
9 care provider, if the health care provider requests the placement  
10 of such eligibility specialists and reimburses the division for  
11 the expenses including but not limited to salaries, benefits,  
12 travel, training, telephone, supplies, and equipment, of such  
13 eligibility specialists. The division may provide a health care  
14 provider with a part-time or temporary eligibility specialist at  
15 the site of a health care provider if the health care provider  
16 requests the placement of such an eligibility specialist and  
17 reimburses the division for the expenses, including but not  
18 limited to the salary, benefits, travel, training, telephone,  
19 supplies, and equipment, of such an eligibility specialist. The  
20 division may seek to employ such eligibility specialists who are  
21 otherwise qualified for such positions and who are current or  
22 former welfare participants. The division may consider training  
23 such current or former welfare participants as eligibility  
24 specialists for this program;

25 (20) Pregnant women who are eligible for, have applied for  
26 and have received MO HealthNet benefits under subdivision (2),  
27 (10), (11) or (12) of this subsection shall continue to be  
28 considered eligible for all pregnancy-related and postpartum MO

1 HealthNet benefits provided under section 208.152 until the end  
2 of the sixty-day period beginning on the last day of their  
3 pregnancy;

4 (21) Case management services for pregnant women and young  
5 children at risk shall be a covered service. To the greatest  
6 extent possible, and in compliance with federal law and  
7 regulations, the department of health and senior services shall  
8 provide case management services to pregnant women by contract or  
9 agreement with the department of social services through local  
10 health departments organized under the provisions of chapter 192  
11 or chapter 205 or a city health department operated under a city  
12 charter or a combined city-county health department or other  
13 department of health and senior services designees. To the  
14 greatest extent possible the department of social services and  
15 the department of health and senior services shall mutually  
16 coordinate all services for pregnant women and children with the  
17 crippled children's program, the prevention of [mental  
18 retardation] intellectual disability and developmental disability  
19 program and the prenatal care program administered by the  
20 department of health and senior services. The department of  
21 social services shall by regulation establish the methodology for  
22 reimbursement for case management services provided by the  
23 department of health and senior services. For purposes of this  
24 section, the term "case management" shall mean those activities  
25 of local public health personnel to identify prospective MO  
26 HealthNet-eligible high-risk mothers and enroll them in the  
27 state's MO HealthNet program, refer them to local physicians or  
28 local health departments who provide prenatal care under

1 physician protocol and who participate in the MO HealthNet  
2 program for prenatal care and to ensure that said high-risk  
3 mothers receive support from all private and public programs for  
4 which they are eligible and shall not include involvement in any  
5 MO HealthNet prepaid, case-managed programs;

6 (22) By January 1, 1988, the department of social services  
7 and the department of health and senior services shall study all  
8 significant aspects of presumptive eligibility for pregnant women  
9 and submit a joint report on the subject, including projected  
10 costs and the time needed for implementation, to the general  
11 assembly. The department of social services, at the direction of  
12 the general assembly, may implement presumptive eligibility by  
13 regulation promulgated pursuant to chapter 207;

14 (23) All participants who would be eligible for aid to  
15 families with dependent children benefits except for the  
16 requirements of paragraph (d) of subdivision (1) of section  
17 208.150;

18 (24) (a) All persons who would be determined to be  
19 eligible for old age assistance benefits under the eligibility  
20 standards in effect December 31, 1973, as authorized by 42 U.S.C.  
21 Section 1396a(f), or less restrictive methodologies as contained  
22 in the MO HealthNet state plan as of January 1, 2005; except  
23 that, on or after July 1, 2005, less restrictive income  
24 methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2),  
25 may be used to change the income limit if authorized by annual  
26 appropriation;

27 (b) All persons who would be determined to be eligible for  
28 aid to the blind benefits under the eligibility standards in

1 effect December 31, 1973, as authorized by 42 U.S.C. Section  
2 1396a(f), or less restrictive methodologies as contained in the  
3 MO HealthNet state plan as of January 1, 2005, except that less  
4 restrictive income methodologies, as authorized in 42 U.S.C.  
5 Section 1396a(r) (2), shall be used to raise the income limit to  
6 one hundred percent of the federal poverty level;

7 (c) All persons who would be determined to be eligible for  
8 permanent and total disability benefits under the eligibility  
9 standards in effect December 31, 1973, as authorized by 42 U.S.C.  
10 1396a(f); or less restrictive methodologies as contained in the  
11 MO HealthNet state plan as of January 1, 2005; except that, on or  
12 after July 1, 2005, less restrictive income methodologies, as  
13 authorized in 42 U.S.C. Section 1396a(r) (2), may be used to  
14 change the income limit if authorized by annual appropriations.  
15 Eligibility standards for permanent and total disability benefits  
16 shall not be limited by age;

17 (25) Persons who have been diagnosed with breast or  
18 cervical cancer and who are eligible for coverage pursuant to 42  
19 U.S.C. 1396a (a) (10) (A) (ii) (XVIII). Such persons shall be  
20 eligible during a period of presumptive eligibility in accordance  
21 with 42 U.S.C. 1396r-1;

22 (26) Persons who are independent foster care adolescents,  
23 as defined in 42 U.S.C. Section 1396d, or who are within  
24 reasonable categories of such adolescents who are under  
25 twenty-one years of age as specified by the state, are eligible  
26 for coverage under 42 U.S.C. Section 1396a (a) (10) (A) (ii) (XVII)  
27 without regard to income or assets.

28 2. Rules and regulations to implement this section shall be

1 promulgated in accordance with section 431.064 and chapter 536.  
2 Any rule or portion of a rule, as that term is defined in section  
3 536.010, that is created under the authority delegated in this  
4 section shall become effective only if it complies with and is  
5 subject to all of the provisions of chapter 536 and, if  
6 applicable, section 536.028. This section and chapter 536 are  
7 nonseverable and if any of the powers vested with the general  
8 assembly pursuant to chapter 536 to review, to delay the  
9 effective date or to disapprove and annul a rule are subsequently  
10 held unconstitutional, then the grant of rulemaking authority and  
11 any rule proposed or adopted after August 28, 2002, shall be  
12 invalid and void.

13 3. After December 31, 1973, and before April 1, 1990, any  
14 family eligible for assistance pursuant to 42 U.S.C. 601, et  
15 seq., as amended, in at least three of the last six months  
16 immediately preceding the month in which such family became  
17 ineligible for such assistance because of increased income from  
18 employment shall, while a member of such family is employed,  
19 remain eligible for MO HealthNet benefits for four calendar  
20 months following the month in which such family would otherwise  
21 be determined to be ineligible for such assistance because of  
22 income and resource limitation. After April 1, 1990, any family  
23 receiving aid pursuant to 42 U.S.C. 601, et seq., as amended, in  
24 at least three of the six months immediately preceding the month  
25 in which such family becomes ineligible for such aid, because of  
26 hours of employment or income from employment of the caretaker  
27 relative, shall remain eligible for MO HealthNet benefits for six  
28 calendar months following the month of such ineligibility as long

1 as such family includes a child as provided in 42 U.S.C. 1396r-6.  
2 Each family which has received such medical assistance during the  
3 entire six-month period described in this section and which meets  
4 reporting requirements and income tests established by the  
5 division and continues to include a child as provided in 42  
6 U.S.C. 1396r-6 shall receive MO HealthNet benefits without fee  
7 for an additional six months. The MO HealthNet division may  
8 provide by rule and as authorized by annual appropriation the  
9 scope of MO HealthNet coverage to be granted to such families.

10 4. When any individual has been determined to be eligible  
11 for MO HealthNet benefits, such medical assistance will be made  
12 available to him or her for care and services furnished in or  
13 after the third month before the month in which he made  
14 application for such assistance if such individual was, or upon  
15 application would have been, eligible for such assistance at the  
16 time such care and services were furnished; provided, further,  
17 that such medical expenses remain unpaid.

18 5. The department of social services may apply to the  
19 federal Department of Health and Human Services for a MO  
20 HealthNet waiver amendment to the Section 1115 demonstration  
21 waiver or for any additional MO HealthNet waivers necessary not  
22 to exceed one million dollars in additional costs to the state,  
23 unless subject to appropriation or directed by statute, but in no  
24 event shall such waiver applications or amendments seek to waive  
25 the services of a rural health clinic or a federally qualified  
26 health center as defined in 42 U.S.C. 1396d(1)(1) and (2) or the  
27 payment requirements for such clinics and centers as provided in  
28 42 U.S.C. 1396a(a)(15) and 1396a(bb) unless such waiver

1 application is approved by the oversight committee created in  
2 section 208.955. A request for such a waiver so submitted shall  
3 only become effective by executive order not sooner than ninety  
4 days after the final adjournment of the session of the general  
5 assembly to which it is submitted, unless it is disapproved  
6 within sixty days of its submission to a regular session by a  
7 senate or house resolution adopted by a majority vote of the  
8 respective elected members thereof, unless the request for such a  
9 waiver is made subject to appropriation or directed by statute.

10 6. Notwithstanding any other provision of law to the  
11 contrary, in any given fiscal year, any persons made eligible for  
12 MO HealthNet benefits under subdivisions (1) to (22) of  
13 subsection 1 of this section shall only be eligible if annual  
14 appropriations are made for such eligibility. This subsection  
15 shall not apply to classes of individuals listed in 42 U.S.C.  
16 Section 1396a(a)(10)(A)(i).

17 208.184. 1. For the renewal of a child's eligibility for  
18 MO HealthNet benefits under this chapter or the state children's  
19 health insurance program benefits under sections 208.631 to  
20 208.659, the department of social services shall provide a  
21 prepopulated form completed by the department based on all  
22 information available to the department and notice to the parent  
23 or caretaker relative of the child that eligibility of the child  
24 will be renewed and continued based on such information unless  
25 the department is provided other information from such parent or  
26 caretaker relative. Nothing in this subsection shall be  
27 construed as preventing the state from verifying, through  
28 electronic and other means, the information so provided.



1       2. If there are no changes in information, such as income  
2       or family composition, relating to eligibility of the child for  
3       the benefits listed in subsection 1 of this section, the parent  
4       or caretaker relative of the child shall send back the  
5       prepopulated form referenced in subsection 1 of this section with  
6       a signature to verify the information on the form is accurate.  
7       If the information on the form is not accurate, the parent or  
8       caretaker relative shall be required to provide updated  
9       information and a signature to verify the new information is  
10       accurate.

11       208.275. 1. As used in this section, unless the context  
12       otherwise indicates, the following terms mean:

13       (1) "Elderly", any person who is sixty years of age or  
14       older;

15       (2) "[Handicapped] Person with a disability", any person  
16       having a physical or mental condition, either permanent or  
17       temporary, which would substantially impair ability to operate or  
18       utilize available transportation.

19       2. There is hereby created the "Coordinating Council on  
20       Special Transportation" within the Missouri department of  
21       transportation. The members of the council shall be: two  
22       members of the senate appointed by the president pro tem, who  
23       shall be from different political parties; two members of the  
24       house of representatives appointed by the speaker, who shall be  
25       from different political parties; the assistant for  
26       transportation of the Missouri department of transportation, or  
27       his designee; the assistant commissioner of the department of  
28       elementary and secondary education, responsible for special

1 transportation, or his designee; the director of the division of  
2 aging of the department of social services, or his designee; the  
3 deputy director for [mental retardation] developmental  
4 disabilities and the deputy director for administration of the  
5 department of mental health, or their designees; the executive  
6 secretary of the governor's committee on the employment of the  
7 [handicapped] persons with a disability; and seven consumer  
8 representatives appointed by the governor by and with the advice  
9 and consent of the senate, four of the consumer representatives  
10 shall represent the elderly and three shall represent [the  
11 handicapped] persons with a disability. Two of such three  
12 members representing [handicapped] persons with a disability  
13 shall represent those with physical [handicaps] disabilities.  
14 Consumer representatives appointed by the governor shall serve  
15 for terms of three years or until a successor is appointed and  
16 qualified. Of the members first selected, two shall be selected  
17 for a term of three years, two shall be selected for a term of  
18 two years, and three shall be selected for a term of one year.  
19 In the event of the death or resignation of any member, his  
20 successor shall be appointed to serve for the unexpired period of  
21 the term for which such member had been appointed.

22 3. State agency personnel shall serve on the council  
23 without additional appropriations or compensation. The consumer  
24 representatives shall serve without compensation except for  
25 receiving reimbursement for the reasonable and necessary expenses  
26 incurred in the performance of their duties on the council from  
27 funds appropriated to the department of transportation.  
28 Legislative members shall be reimbursed by their respective

1 appointing bodies out of the contingency fund for such body for  
2 necessary expenses incurred in the performance of their duties.

3 4. Staff for the council shall be provided by the Missouri  
4 department of transportation. The department shall designate a  
5 special transportation coordinator who shall have had experience  
6 in the area of special transportation, as well as such other  
7 staff as needed to enable the council to perform its duties.

8 5. The council shall meet at least quarterly each year and  
9 shall elect from its members a chairman and a vice chairman.

10 6. The coordinating council on special transportation  
11 shall:

12 (1) Recommend and periodically review policies for the  
13 coordinated planning and delivery of special transportation when  
14 appropriate;

15 (2) Identify special transportation needs and recommend  
16 agency funding allocations and resources to meet these needs when  
17 appropriate;

18 (3) Identify legal and administrative barriers to effective  
19 service delivery;

20 (4) Review agency methods for distributing funds within the  
21 state and make recommendations when appropriate;

22 (5) Review agency funding criteria and make recommendations  
23 when appropriate;

24 (6) Review area transportation plans and make  
25 recommendations for plan format and content;

26 (7) Establish measurable objectives for the delivery of  
27 transportation services;

28 (8) Review annual performance data and make recommendations

1 for improved service delivery, operating procedures or funding  
2 when appropriate;

3 (9) Review local disputes and conflicts on special  
4 transportation and recommend solutions.

5 208.955. 1. There is hereby established in the department  
6 of social services the "MO HealthNet Oversight Committee", which  
7 shall be appointed by January 1, 2008, and shall consist of  
8 ~~[eighteen]~~ nineteen members as follows:

9 (1) Two members of the house of representatives, one from  
10 each party, appointed by the speaker of the house of  
11 representatives and the minority floor leader of the house of  
12 representatives;

13 (2) Two members of the Senate, one from each party,  
14 appointed by the president pro tem of the senate and the minority  
15 floor leader of the senate;

16 (3) One consumer representative who has no financial  
17 interest in the health care industry and who has not been an  
18 employee of the state within the last five years;

19 (4) Two primary care physicians, licensed under chapter  
20 334, [recommended by any Missouri organization or association  
21 that represents a significant number of physicians licensed in  
22 this state,] who care for participants, not from the same  
23 geographic area, chosen in the same manner as described in  
24 section 334.120;

25 (5) Two physicians, licensed under chapter 334, who care  
26 for participants but who are not primary care physicians and are  
27 not from the same geographic area, [recommended by any Missouri  
28 organization or association that represents a significant number

1 of physicians licensed in this state] chosen in the same manner  
2 as described in section 334.120;

3 (6) One representative of the state hospital association;

4 (7) [One] Two nonphysician health care [professional]  
5 professionals, the first nonphysician health care professional  
6 licensed under chapter 335 and the second nonphysician health  
7 care professional licensed under chapter 337, who [cares] care  
8 for participants[, recommended by the director of the department  
9 of insurance, financial institutions and professional  
10 registration];

11 (8) One dentist, who cares for participants[. The dentist  
12 shall be recommended by any Missouri organization or association  
13 that represents a significant number of dentists licensed in this  
14 state], chosen in the same manner as described in section  
15 332.021;

16 (9) Two patient advocates who have no financial interest in  
17 the health care industry and who have not been employees of the  
18 state within the last five years;

19 (10) One public member who has no financial interest in the  
20 health care industry and who has not been an employee of the  
21 state within the last five years; and

22 (11) The directors of the department of social services,  
23 the department of mental health, the department of health and  
24 senior services, or the respective directors' designees, who  
25 shall serve as ex-officio members of the committee.

26 2. The members of the oversight committee, other than the  
27 members from the general assembly and ex-officio members, shall  
28 be appointed by the governor with the advice and consent of the

1 senate. A chair of the oversight committee shall be selected by  
2 the members of the oversight committee. Of the members first  
3 appointed to the oversight committee by the governor, eight  
4 members shall serve a term of two years, seven members shall  
5 serve a term of one year, and thereafter, members shall serve a  
6 term of two years. Members shall continue to serve until their  
7 successor is duly appointed and qualified. Any vacancy on the  
8 oversight committee shall be filled in the same manner as the  
9 original appointment. Members shall serve on the oversight  
10 committee without compensation but may be reimbursed for their  
11 actual and necessary expenses from moneys appropriated to the  
12 department of social services for that purpose. The department  
13 of social services shall provide technical, actuarial, and  
14 administrative support services as required by the oversight  
15 committee. The oversight committee shall:

16 (1) Meet on at least four occasions annually, including at  
17 least four before the end of December of the first year the  
18 committee is established. Meetings can be held by telephone or  
19 video conference at the discretion of the committee;

20 (2) Review the participant and provider satisfaction  
21 reports and the reports of health outcomes, social and behavioral  
22 outcomes, use of evidence-based medicine and best practices as  
23 required of the health improvement plans and the department of  
24 social services under section 208.950;

25 (3) Review the results from other states of the relative  
26 success or failure of various models of health delivery  
27 attempted;

28 (4) Review the results of studies comparing health plans

1 conducted under section 208.950;

2 (5) Review the data from health risk assessments collected  
3 and reported under section 208.950;

4 (6) Review the results of the public process input  
5 collected under section 208.950;

6 (7) Advise and approve proposed design and implementation  
7 proposals for new health improvement plans submitted by the  
8 department, as well as make recommendations and suggest  
9 modifications when necessary;

10 (8) Determine how best to analyze and present the data  
11 reviewed under section 208.950 so that the health outcomes,  
12 participant and provider satisfaction, results from other states,  
13 health plan comparisons, financial impact of the various health  
14 improvement plans and models of care, study of provider access,  
15 and results of public input can be used by consumers, health care  
16 providers, and public officials;

17 (9) Present significant findings of the analysis required  
18 in subdivision (8) of this subsection in a report to the general  
19 assembly and governor, at least annually, beginning January 1,  
20 2009;

21 (10) Review the budget forecast issued by the legislative  
22 budget office, and the report required under subsection (22) of  
23 subsection 1 of section 208.151, and after study:

24 (a) Consider ways to maximize the federal drawdown of  
25 funds;

26 (b) Study the demographics of the state and of the MO  
27 HealthNet population, and how those demographics are changing;

28 (c) Consider what steps are needed to prepare for the

1 increasing numbers of participants as a result of the baby boom  
2 following World War II;

3 (11) Conduct a study to determine whether an office of  
4 inspector general shall be established. Such office would be  
5 responsible for oversight, auditing, investigation, and  
6 performance review to provide increased accountability,  
7 integrity, and oversight of state medical assistance programs, to  
8 assist in improving agency and program operations, and to deter  
9 and identify fraud, abuse, and illegal acts. The committee shall  
10 review the experience of all states that have created a similar  
11 office to determine the impact of creating a similar office in  
12 this state; and

13 (12) Perform other tasks as necessary, including but not  
14 limited to making recommendations to the division concerning the  
15 promulgation of rules and emergency rules so that quality of  
16 care, provider availability, and participant satisfaction can be  
17 assured.

18 3. By July 1, 2011, the oversight committee shall issue  
19 findings to the general assembly on the success and failure of  
20 health improvement plans and shall recommend whether or not any  
21 health improvement plans should be discontinued.

22 4. The oversight committee shall designate a subcommittee  
23 devoted to advising the department on the development of a  
24 comprehensive entry point system for long-term care that shall:

25 (1) Offer Missourians an array of choices including  
26 community-based, in-home, residential and institutional services;

27 (2) Provide information and assistance about the array of  
28 long-term care services to Missourians;



1           (3) Create a delivery system that is easy to understand and  
2 access through multiple points, which shall include but shall not  
3 be limited to providers of services;

4           (4) Create a delivery system that is efficient, reduces  
5 duplication, and streamlines access to multiple funding sources  
6 and programs;

7           (5) Strengthen the long-term care quality assurance and  
8 quality improvement system;

9           (6) Establish a long-term care system that seeks to achieve  
10 timely access to and payment for care, foster quality and  
11 excellence in service delivery, and promote innovative and  
12 cost-effective strategies; and

13           (7) Study one-stop shopping for seniors as established in  
14 section 208.612.

15           5. The subcommittee shall include the following members:

16           (1) The lieutenant governor or his or her designee, who  
17 shall serve as the subcommittee chair;

18           (2) One member from a Missouri area agency on aging,  
19 designated by the governor;

20           (3) One member representing the in-home care profession,  
21 designated by the governor;

22           (4) One member representing residential care facilities,  
23 predominantly serving MO HealthNet participants, designated by  
24 the governor;

25           (5) One member representing assisted living facilities or  
26 continuing care retirement communities, predominantly serving MO  
27 HealthNet participants, designated by the governor;

28           (6) One member representing skilled nursing facilities,

1 predominantly serving MO HealthNet participants, designated by  
2 the governor;

3 (7) One member from the office of the state ombudsman for  
4 long-term care facility residents, designated by the governor;

5 (8) One member representing Missouri centers for  
6 independent living, designated by the governor;

7 (9) One consumer representative with expertise in services  
8 for seniors or [the disabled] persons with a disability,  
9 designated by the governor;

10 (10) One member with expertise in Alzheimer's disease or  
11 related dementia;

12 (11) One member from a county developmental disability  
13 board, designated by the governor;

14 (12) One member representing the hospice care profession,  
15 designated by the governor;

16 (13) One member representing the home health care  
17 profession, designated by the governor;

18 (14) One member representing the adult day care profession,  
19 designated by the governor;

20 (15) One member gerontologist, designated by the governor;

21 (16) Two members representing the aged, blind, and disabled  
22 population, not of the same geographic area or demographic group  
23 designated by the governor;

24 (17) The directors of the departments of social services,  
25 mental health, and health and senior services, or their  
26 designees; and

27 (18) One member of the house of representatives and one  
28 member of the senate serving on the oversight committee,

1 designated by the oversight committee chair.

2  
3 Members shall serve on the subcommittee without compensation but  
4 may be reimbursed for their actual and necessary expenses from  
5 moneys appropriated to the department of health and senior  
6 services for that purpose. The department of health and senior  
7 services shall provide technical and administrative support  
8 services as required by the committee.

9 6. By October 1, 2008, the comprehensive entry point system  
10 subcommittee shall submit its report to the governor and general  
11 assembly containing recommendations for the implementation of the  
12 comprehensive entry point system, offering suggested legislative  
13 or administrative proposals deemed necessary by the subcommittee  
14 to minimize conflict of interests for successful implementation  
15 of the system. Such report shall contain, but not be limited to,  
16 recommendations for implementation of the following consistent  
17 with the provisions of section 208.950:

18 (1) A complete statewide universal information and  
19 assistance system that is integrated into the web-based  
20 electronic patient health record that can be accessible by phone,  
21 in-person, via MO HealthNet providers and via the Internet that  
22 connects consumers to services or providers and is used to  
23 establish consumers' needs for services. Through the system,  
24 consumers shall be able to independently choose from a full range  
25 of home, community-based, and facility-based health and social  
26 services as well as access appropriate services to meet  
27 individual needs and preferences from the provider of the  
28 consumer's choice;

1           (2) A mechanism for developing a plan of service or care  
2 via the web-based electronic patient health record to authorize  
3 appropriate services;

4           (3) A preadmission screening mechanism for MO HealthNet  
5 participants for nursing home care;

6           (4) A case management or care coordination system to be  
7 available as needed; and

8           (5) An electronic system or database to coordinate and  
9 monitor the services provided which are integrated into the  
10 web-based electronic patient health record.

11           7. Starting July 1, 2009, and for three years thereafter,  
12 the subcommittee shall provide to the governor, lieutenant  
13 governor and the general assembly a yearly report that provides  
14 an update on progress made by the subcommittee toward  
15 implementing the comprehensive entry point system.

16           8. The provisions of section 23.253 shall not apply to  
17 sections 208.950 to 208.955.

18           210.101. 1. There is hereby established the "Missouri  
19 Children's Services Commission", which shall be composed of the  
20 following members:

21           (1) The director or [deputy director of the department of  
22 labor and industrial relations and the director or deputy  
23 director of each state agency, department, division, or other  
24 entity which provides services or programs for children,  
25 including, but not limited to, the department of mental health,  
26 the department of elementary and secondary education, the  
27 department of social services, the department of public safety  
28 and the department of health and senior services] the director's

1 designee of the following departments: labor and industrial  
2 relations, corrections, elementary and secondary education,  
3 higher education, health and senior services, mental health,  
4 public safety, and social services;

5 (2) One judge of a family or juvenile court, who shall be  
6 appointed by the chief justice of the supreme court;

7 (3) [One judge of a family court, who shall be appointed by  
8 the chief justice of the supreme court;

9 (4) Four] Two members, [two] one from each political party,  
10 of the house of representatives, who shall be appointed by the  
11 speaker of the house of representatives;

12 [(5) Four] (4) Two members, [two] one from each political  
13 party, of the senate, who shall be appointed by the president pro  
14 tempore of the senate.

15  
16 All members shall serve for as long as they hold the position  
17 which made them eligible for appointment to the Missouri  
18 children's services commission under this subsection. All  
19 members shall serve without compensation but may be reimbursed  
20 for all actual and necessary expenses incurred in the performance  
21 of their official duties for the commission.

22 2. All meetings of the Missouri children's services  
23 commission shall be open to the public and shall, for all  
24 purposes, be deemed open public meetings under the provisions of  
25 sections 610.010 to 610.030. The Missouri children's services  
26 commission shall meet no less than once every two months[, and  
27 shall hold its first meeting no later than sixty days after  
28 September 28, 1983]. Notice of all meetings of the commission

1 shall be given to the general assembly in the same manner  
2 required for notifying the general public of meetings of the  
3 general assembly.

4 3. The Missouri children's services commission may make all  
5 rules it deems necessary to enable it to conduct its meetings,  
6 elect its officers, and set the terms and duties of its officers.

7 4. The commission shall elect from amongst its members a  
8 chairman, vice chairman, a secretary-reporter, and such other  
9 officers as it deems necessary.

10 5. The services of the personnel of any agency from which  
11 the director or deputy director is a member of the commission  
12 shall be made available to the commission at the discretion of  
13 such director or deputy director. All meetings of the commission  
14 shall be held in the state of Missouri.

15 6. The officers of the commission may hire an executive  
16 director. Funding for the executive director may be provided from  
17 the Missouri children's services commission fund or other sources  
18 provided by law.

19 7. The commission, by majority vote, may invite individuals  
20 representing local and federal agencies or private organizations  
21 and the general public to serve as ex officio members of the  
22 commission. Such individuals shall not have a vote in commission  
23 business and shall serve without compensation but may be  
24 reimbursed for all actual and necessary expenses incurred in the  
25 performance of their official duties for the commission.

26 210.105. 1. There is hereby created the "Missouri Task  
27 Force on Prematurity and Infant Mortality" within the children's  
28 services commission to consist of the following eighteen members:

1       (1) The following six members of the general assembly:

2       (a) Three members of the house of representatives, with two  
3 members to be appointed by the speaker of the house and one  
4 member to be appointed by the minority leader of the house;

5       (b) Three members of the senate, with two members to be  
6 appointed by the president pro tem of the senate and one member  
7 to be appointed by the minority leader of the senate;

8       (2) The director of the department of health and senior  
9 services, or the director's designee;

10       (3) The director of the department of social services, or  
11 the director's designee;

12       (4) The director of the department of insurance, financial  
13 institutions and professional registration, or the director's  
14 designee;

15       (5) One member representing a not-for-profit organization  
16 specializing in prematurity and infant mortality;

17       (6) Two members who shall be either a physician or nurse  
18 practitioner specializing in obstetrics and gynecology, family  
19 medicine, pediatrics or perinatology;

20       (7) Two consumer representatives who are parents of  
21 individuals born prematurely, including one parent of an  
22 individual under the age of eighteen;

23       (8) Two members representing insurance providers in the  
24 state;

25       (9) One small business advocate; and

26       (10) One member of the small business regulatory fairness  
27 board.

1 Members of the task force, other than the legislative members and  
2 directors of state agencies, shall be appointed by the governor  
3 with the advice and consent of the senate by September 15, 2011.

4 2. A majority of a quorum from among the task force  
5 membership shall elect a chair and vice-chair of the task force.

6 3. A majority vote of a quorum of the task force is  
7 required for any action.

8 4. The chairperson of the children's services commission  
9 shall convene the initial meeting of the task force by no later  
10 than October 15, 2011. The task force shall meet at least  
11 quarterly; except that the task force shall meet at least twice  
12 prior to the end of 2011. Meetings may be held by telephone or  
13 video conference at the discretion of the chair.

14 5. Members shall serve on the commission without  
15 compensation, but may, subject to appropriation, be reimbursed  
16 for actual and necessary expenses incurred in the performance of  
17 their official duties as members of the task force.

18 6. The goal of the task force is to seek evidence-based and  
19 cost-effective approaches to reduce Missouri's preterm birth and  
20 infant mortality rates.

21 7. The task force shall:

22 (1) Submit findings to the general assembly;

23 (2) Review appropriate and relevant evidence-based research  
24 regarding the causes and effects of prematurity and birth defects  
25 in Missouri;

26 (3) Examine existing public and private entities currently  
27 associated with the prevention and treatment of prematurity and  
28 infant mortality in Missouri;



1       (4) Develop cost-effective strategies to reduce prematurity  
2       and infant mortality; and

3       (5) Issue findings and propose to the appropriate public  
4       and private organizations goals, objectives, strategies, and  
5       tactics designed to reduce prematurity and infant mortality in  
6       Missouri, including recommendations on public policy for  
7       consideration during the next appropriate session of the general  
8       assembly.

9       8. On or before December 31, 2013, the task force shall  
10       submit a report on their findings to the governor and general  
11       assembly. The report shall include any dissenting opinions in  
12       addition to any majority opinions.

13       9. The task force shall expire on January 1, 2015, or upon  
14       submission of a report under subsection 8 of this section,  
15       whichever is earlier.

16       210.496. The division may refuse to issue either a license  
17       or a provisional license to an applicant, or may suspend or  
18       revoke the license or provisional license of a licensee, who:

19       (1) Fails consistently to comply with the applicable  
20       provisions of sections 208.400 to 208.535 and the applicable  
21       rules promulgated thereunder;

22       (2) Violates any of the provisions of its license;

23       (3) Violates state laws or rules relating to the protection  
24       of children;

25       (4) Furnishes or makes any misleading or false statements  
26       or reports to the division;

27       (5) Refuses to submit to the division any reports or  
28       refuses to make available to the division any records required by

1 the division in making an investigation;

2 (6) Fails or refuses to admit authorized representatives of  
3 the division at any reasonable time for the purpose of  
4 investigation;

5 (7) Fails or refuses to submit to an investigation by the  
6 division;

7 (8) Fails to provide, maintain, equip, and keep in safe and  
8 sanitary condition the premises established or used for the care  
9 of children being served, as required by law, rule, or ordinance  
10 applicable to the location of the foster home or residential care  
11 facility; or

12 (9) Fails to provide financial resources adequate for the  
13 satisfactory care of and services to children being served and  
14 the upkeep of the premises.

15  
16 Nothing in this section shall be construed to permit  
17 discrimination on the basis of disability or disease of an  
18 applicant. The disability or disease of an applicant shall not  
19 constitute a basis for a determination that the applicant is  
20 unfit or not suitable to be a foster parent without a specific  
21 showing that there is a causal relationship between the  
22 disability or disease and a substantial and significant risk of  
23 harm to a child or an inability to perform the duties of a foster  
24 parent.

25 210.900. 1. Sections 210.900 to 210.936 shall be known and  
26 may be cited as the "Family Care Safety Act".

27 2. As used in sections 210.900 to 210.936, the following  
28 terms shall mean:

1           (1) "Child-care provider", any licensed or license-exempt  
2 child-care home, any licensed or license-exempt child-care  
3 center, child-placing agency, residential care facility for  
4 children, group home, foster family group home, foster family  
5 home, employment agency that refers a child-care worker to  
6 parents or guardians as defined in section 289.005. The term  
7 "child-care provider" does not include summer camps or voluntary  
8 associations designed primarily for recreational or educational  
9 purposes;

10           (2) "Child-care worker", any person who is employed by a  
11 child-care provider, or receives state or federal funds, either  
12 by direct payment, reimbursement or voucher payment, as  
13 remuneration for child-care services;

14           (3) "Department", the department of health and senior  
15 services;

16           (4) "Elder-care provider", any operator licensed pursuant  
17 to chapter 198 or any person, corporation, or association who  
18 provides in-home services under contract with the division of  
19 aging, or any employer of nurses or nursing assistants of home  
20 health agencies licensed pursuant to sections 197.400 to 197.477,  
21 or any nursing assistants employed by a hospice pursuant to  
22 sections 197.250 to 197.280, or that portion of a hospital for  
23 which subdivision (3) of subsection 1 of section 198.012 applies;

24           (5) "Elder-care worker", any person who is employed by an  
25 elder-care provider, or who receives state or federal funds,  
26 either by direct payment, reimbursement or voucher payment, as  
27 remuneration for elder-care services;

28           (6) "Employer", any child-care provider, elder-care

1 provider, or personal-care provider as defined in this section;

2 (7) "Mental health provider", any [mental retardation]  
3 developmental disability facility or group home as defined in  
4 section 633.005;

5 (8) "Mental health worker", any person employed by a mental  
6 health provider to provide personal care services and supports;

7 (9) "Patrol", the Missouri state highway patrol;

8 (10) "Personal-care attendant" or "personal-care worker", a  
9 person who performs routine services or supports necessary for a  
10 person with a physical or mental disability to enter and maintain  
11 employment or to live independently;

12 (11) "Personal-care provider", any person, corporation, or  
13 association who provides personal-care services or supports under  
14 contract with the department of mental health, the division of  
15 aging, the department of health and senior services or the  
16 department of elementary and secondary education;

17 (12) "Related child care", child care provided only to a  
18 child or children by such child's or children's grandparents,  
19 great-grandparents, aunts or uncles, or siblings living in a  
20 residence separate from the child or children;

21 (13) "Related elder care", care provided only to an elder  
22 by an adult child, a spouse, a grandchild, a great-grandchild or  
23 a sibling of such elder.

24 211.031. 1. Except as otherwise provided in this chapter,  
25 the juvenile court or the family court in circuits that have a  
26 family court as provided in sections 487.010 to 487.190 shall  
27 have exclusive original jurisdiction in proceedings:

28 (1) Involving any child or person seventeen years of age

1 who may be a resident of or found within the county and who is  
2 alleged to be in need of care and treatment because:

3 (a) The parents, or other persons legally responsible for  
4 the care and support of the child or person seventeen years of  
5 age, neglect or refuse to provide proper support, education which  
6 is required by law, medical, surgical or other care necessary for  
7 his or her well-being; except that reliance by a parent, guardian  
8 or custodian upon remedial treatment other than medical or  
9 surgical treatment for a child or person seventeen years of age  
10 shall not be construed as neglect when the treatment is  
11 recognized or permitted pursuant to the laws of this state;

12 (b) The child or person seventeen years of age is otherwise  
13 without proper care, custody or support; or

14 (c) The child or person seventeen years of age was living  
15 in a room, building or other structure at the time such dwelling  
16 was found by a court of competent jurisdiction to be a public  
17 nuisance pursuant to section 195.130;

18 (d) The child or person seventeen years of age is a child  
19 in need of mental health services and the parent, guardian or  
20 custodian is unable to afford or access appropriate mental health  
21 treatment or care for the child;

22 (2) Involving any child who may be a resident of or found  
23 within the county and who is alleged to be in need of care and  
24 treatment because:

25 (a) The child while subject to compulsory school attendance  
26 is repeatedly and without justification absent from school; or

27 (b) The child disobeys the reasonable and lawful directions  
28 of his or her parents or other custodian and is beyond their

1 control; or

2 (c) The child is habitually absent from his or her home  
3 without sufficient cause, permission, or justification; or

4 (d) The behavior or associations of the child are otherwise  
5 injurious to his or her welfare or to the welfare of others; or

6 (e) The child is charged with an offense not classified as  
7 criminal, or with an offense applicable only to children; except  
8 that, the juvenile court shall not have jurisdiction over any  
9 child fifteen and one-half years of age who is alleged to have  
10 violated a state or municipal traffic ordinance or regulation,  
11 the violation of which does not constitute a felony, or any child  
12 who is alleged to have violated a state or municipal ordinance or  
13 regulation prohibiting possession or use of any tobacco product;

14 (3) Involving any child who is alleged to have violated a  
15 state law or municipal ordinance, or any person who is alleged to  
16 have violated a state law or municipal ordinance prior to  
17 attaining the age of seventeen years, in which cases jurisdiction  
18 may be taken by the court of the circuit in which the child or  
19 person resides or may be found or in which the violation is  
20 alleged to have occurred; except that, the juvenile court shall  
21 not have jurisdiction over any child fifteen and one-half years  
22 of age who is alleged to have violated a state or municipal  
23 traffic ordinance or regulation, the violation of which does not  
24 constitute a felony, and except that the juvenile court shall  
25 have concurrent jurisdiction with the municipal court over any  
26 child who is alleged to have violated a municipal curfew  
27 ordinance, and except that the juvenile court shall have  
28 concurrent jurisdiction with the circuit court on any child who

1 is alleged to have violated a state or municipal ordinance or  
2 regulation prohibiting possession or use of any tobacco product;

3 (4) For the adoption of a person;

4 (5) For the commitment of a child or person seventeen years  
5 of age to the guardianship of the department of social services  
6 as provided by law.

7 2. Transfer of a matter, proceeding, jurisdiction or  
8 supervision for a child or person seventeen years of age who  
9 resides in a county of this state shall be made as follows:

10 (1) Prior to the filing of a petition and upon request of  
11 any party or at the discretion of the juvenile officer, the  
12 matter in the interest of a child or person seventeen years of  
13 age may be transferred by the juvenile officer, with the prior  
14 consent of the juvenile officer of the receiving court, to the  
15 county of the child's residence or the residence of the person  
16 seventeen years of age for future action;

17 (2) Upon the motion of any party or on its own motion prior  
18 to final disposition on the pending matter, the court in which a  
19 proceeding is commenced may transfer the proceeding of a child or  
20 person seventeen years of age to the court located in the county  
21 of the child's residence or the residence of the person seventeen  
22 years of age, or the county in which the offense pursuant to  
23 subdivision (3) of subsection 1 of this section is alleged to  
24 have occurred for further action;

25 (3) Upon motion of any party or on its own motion, the  
26 court in which jurisdiction has been taken pursuant to subsection  
27 1 of this section may at any time thereafter transfer  
28 jurisdiction of a child or person seventeen years of age to the

1 court located in the county of the child's residence or the  
2 residence of the person seventeen years of age for further action  
3 with the prior consent of the receiving court;

4 (4) Upon motion of any party or upon its own motion at any  
5 time following a judgment of disposition or treatment pursuant to  
6 section 211.181, the court having jurisdiction of the cause may  
7 place the child or person seventeen years of age under the  
8 supervision of another juvenile court within or without the state  
9 pursuant to section 210.570 with the consent of the receiving  
10 court;

11 (5) Upon motion of any child or person seventeen years of  
12 age or his or her parent, the court having jurisdiction shall  
13 grant one change of judge pursuant to Missouri Supreme Court  
14 Rules;

15 (6) Upon the transfer of any matter, proceeding,  
16 jurisdiction or supervision of a child or person seventeen years  
17 of age, certified copies of all legal and social documents and  
18 records pertaining to the case on file with the clerk of the  
19 transferring juvenile court shall accompany the transfer.

20 3. In any proceeding involving any child or person  
21 seventeen years of age taken into custody in a county other than  
22 the county of the child's residence or the residence of a person  
23 seventeen years of age, the juvenile court of the county of the  
24 child's residence or the residence of a person seventeen years of  
25 age shall be notified of such taking into custody within  
26 seventy-two hours.

27 4. When an investigation by a juvenile officer pursuant to  
28 this section reveals that the only basis for action involves an



1 alleged violation of section 167.031 involving a child who  
2 alleges to be home schooled, the juvenile officer shall contact a  
3 parent or parents of such child to verify that the child is being  
4 home schooled and not in violation of section 167.031 before  
5 making a report of such a violation. Any report of a violation  
6 of section 167.031 made by a juvenile officer regarding a child  
7 who is being home schooled shall be made to the prosecuting  
8 attorney of the county where the child legally resides.

9 5. The disability or disease of a parent shall not  
10 constitute a basis for a determination that a child is a child in  
11 need of care or for the removal of custody of a child from the  
12 parent without a specific showing that there is a causal relation  
13 between the disability or disease and harm to the child.

14 211.202. 1. If a child under the jurisdiction of the  
15 juvenile court appears to be mentally disordered, other than  
16 [mentally retarded or] intellectually disabled or developmentally  
17 disabled, the court, on its own motion or on the motion or  
18 petition of any interested party, may order the department of  
19 mental health to evaluate the child.

20 2. A mental health facility designated by the department of  
21 mental health shall perform within twenty days an evaluation of  
22 the child, on an outpatient basis if practicable, for the purpose  
23 of determining whether inpatient admission is appropriate because  
24 the following criteria are met:

25 (1) The child has a mental disorder other than mental  
26 retardation or developmental disability, as all these terms are  
27 defined in chapter 630;

28 (2) The child requires inpatient care and treatment for the

1 protection of himself or others;

2 (3) A mental health facility offers a program suitable for  
3 the child's needs;

4 (4) A mental health facility is the least restrictive  
5 environment as the term "least restrictive environment" is  
6 defined in chapter 630.

7 3. If the facility determines, as a result of the  
8 evaluation, that it is appropriate to admit the child as an  
9 inpatient, the head of the mental health facility, or his  
10 designee, shall recommend the child for admission, subject to the  
11 availability of suitable accommodations, and send the juvenile  
12 court notice of the recommendation and a copy of the evaluation.  
13 Should the department evaluation recommend inpatient care, the  
14 child, his parent, guardian or counsel shall have the right to  
15 request an independent evaluation of the child. Within twenty  
16 days of the receipt of the notice and evaluation by the facility,  
17 or within twenty days of the receipt of the notice and evaluation  
18 from the independent examiner, the court may order, pursuant to a  
19 hearing, the child committed to the custody of the department of  
20 mental health for inpatient care and treatment, or may otherwise  
21 dispose of the matter; except, that no child shall be committed  
22 to a mental health facility under this section for other than  
23 care and treatment.

24 4. If the facility determines, as a result of the  
25 evaluation, that inpatient admission is not appropriate, the head  
26 of the mental health facility, or his designee, shall not  
27 recommend the child for admission as an inpatient. The head of  
28 the facility, or his designee, shall send to the court a notice

1 that inpatient admission is not appropriate, along with a copy of  
2 the evaluation, within twenty days of completing the evaluation.  
3 If the child was evaluated on an inpatient basis, the juvenile  
4 court shall transfer the child from the department of mental  
5 health within twenty days of receipt of the notice and evaluation  
6 or set the matter for hearing within twenty days, giving notice  
7 of the hearing to the director of the facility as well as all  
8 others required by law.

9 5. If at any time the facility determines that it is no  
10 longer appropriate to provide inpatient care and treatment for  
11 the child committed by the juvenile court, but that such child  
12 appears to qualify for placement under section 630.610, the head  
13 of the facility shall refer such child for placement. Subject to  
14 the availability of an appropriate placement, the department of  
15 mental health shall place any child who qualifies for placement  
16 under section 630.610. If no appropriate placement is available,  
17 the department of mental health shall discharge the child or make  
18 such other arrangements as it may deem appropriate and consistent  
19 with the child's welfare and safety. Notice of the placement or  
20 discharge shall be sent to the juvenile court which first ordered  
21 the child's detention.

22 6. The committing juvenile court shall conduct an annual  
23 review of the child's need for continued placement in the mental  
24 health facility.

25 211.203. 1. If a child under the jurisdiction of the  
26 juvenile court appears to be mentally retarded or developmentally  
27 disabled, as these terms are defined in chapter 630, the court,  
28 on its own motion or on the motion or petition of any interested

1 party, may order the department of mental health to evaluate the  
2 child.

3 2. A regional center designated by the department of mental  
4 health shall perform within twenty days a comprehensive  
5 evaluation, as defined in chapter 633, on an outpatient basis if  
6 practicable, for the purpose of determining the appropriateness  
7 of a referral to a [mental retardation] developmental disability  
8 facility operated or funded by the department of mental health.  
9 If it is determined by the regional center, as a result of the  
10 evaluation, to be appropriate to refer such child to a department  
11 [mental retardation] developmental disability facility under  
12 section 633.120 or a private [mental retardation] developmental  
13 disability facility under section 630.610, the regional center  
14 shall refer the evaluation to the appropriate [mental  
15 retardation] developmental disability facility.

16 3. If, as a result of reviewing the evaluation, the head of  
17 the [mental retardation] developmental disability facility, or  
18 his designee, determines that it is appropriate to admit such  
19 child as a resident, the head of the [mental retardation]  
20 developmental disability facility, or his or her designee, shall  
21 recommend the child for admission, subject to availability of  
22 suitable accommodations. The head of the regional center, or his  
23 designee, shall send the juvenile court notice of the  
24 recommendation for admission by the [mental retardation]  
25 developmental disability facility and a copy of the evaluation.  
26 Should the department evaluation recommend residential care and  
27 habilitation, the child, his parent, guardian or counsel shall  
28 have the right to request an independent evaluation of the child.

1 Within twenty days of receipt of the notice and evaluation from  
2 the facility, or within twenty days of the receipt of the notice  
3 and evaluation from the independent examiner, the court may  
4 order, pursuant to a hearing, the child committed to the custody  
5 of the department of mental health for residential care and  
6 habilitation, or may otherwise dispose of the matter; except,  
7 that no child shall be committed to the department of mental  
8 health for other than residential care and habilitation. If the  
9 department proposes placement at, or transferring the child to, a  
10 department facility other than that designated in the order of  
11 the juvenile court, the department shall conduct a due process  
12 hearing within six days of such placement or transfer during  
13 which the head of the initiating facility shall have the burden  
14 to show that the placement or transfer is appropriate for the  
15 medical needs of the child. The head of the facility shall  
16 notify the court ordering detention or commitment and the child's  
17 last known attorney of record of such placement or transfer.

18 4. If, as a result of the evaluation, the regional center  
19 determines that it is not appropriate to admit such child as a  
20 resident in a [mental retardation] developmental disability  
21 facility, the regional center shall send a notice to the court  
22 that it is inappropriate to admit such child, along with a copy  
23 of the evaluation. If the child was evaluated on a residential  
24 basis, the juvenile court shall transfer the child from the  
25 department within five days of receiving the notice and  
26 evaluation or set the matter for hearing within twenty days,  
27 giving notice of the hearing to the director of the facility as  
28 well as all others required by law.

1           5. If at any time the [mental retardation] developmental  
2 disability facility determines that it is no longer appropriate  
3 to provide residential habilitation for the child committed by  
4 the juvenile court, but that such child appears to qualify for  
5 placement under section 630.610, the head of the facility shall  
6 refer such child for placement. Subject to the availability of  
7 an appropriate placement, the department shall place any child  
8 who qualifies for placement under section 630.610. If no  
9 appropriate placement is available, the department shall  
10 discharge the child or make such other arrangements as it may  
11 deem appropriate and consistent with the child's welfare and  
12 safety. Notice of the placement or discharge shall be sent to  
13 the juvenile court which first ordered the child's detention.

14           6. The committing court shall conduct an annual review of  
15 the child's need for continued placement at the [mental  
16 retardation] developmental disability facility.

17           211.206. 1. For each child committed to the department of  
18 mental health by the juvenile court, the director of the  
19 department of mental health, or his designee, shall prepare an  
20 individualized treatment or habilitation plan, as defined in  
21 chapter 630, within thirty days of the admission for treatment or  
22 habilitation. The status of each child shall be reviewed at  
23 least once every thirty days. Copies of all individualized  
24 treatment plans, habilitation plans, and periodic reviews shall  
25 be sent to the committing juvenile court.

26           2. The department of mental health shall discharge a child  
27 committed to it by the juvenile court pursuant to sections  
28 211.202 and 211.203 if the head of a mental health facility or

1    [mental retardation] developmental disability facility, or his  
2    designee, determines, in an evaluation or a periodic review, that  
3    any of the following conditions are true:

4           (1) A child committed to a mental health facility no longer  
5    has a mental disorder other than [mental retardation]  
6    intellectual disability or developmental disability;

7           (2) A child committed to a [mental retardation]  
8    developmental disability facility is not [mentally retarded]  
9    intellectually disabled or developmentally disabled;

10          (3) The condition of the child is no longer such that, for  
11   the protection of the child or others, the child requires  
12   inpatient hospitalization or residential habilitation;

13          (4) The mental health facility or [mental retardation]  
14   developmental disability facility does not offer a program which  
15   best meets the child's needs;

16          (5) The mental health facility or [mental retardation]  
17   developmental disability facility does not provide the least  
18   restrictive environment, as defined in section 630.005, which is  
19   consistent with the child's welfare and safety.

20          3. If the committing court specifically retained  
21   jurisdiction of the child by the terms of its order committing  
22   the child to the department of mental health, notice of the  
23   discharge, accompanied by a diagnosis and recommendations for  
24   placement of the child, shall be forwarded to the court at least  
25   twenty days before such discharge date. Unless within twenty  
26   days of receipt of notice of discharge the juvenile court orders  
27   the child to be brought before it for appropriate proceedings,  
28   jurisdiction of that court over the child shall terminate at the

1 end of such twenty days.

2 211.207. 1. If a child is committed to the division of  
3 youth services and subsequently appears to be mentally  
4 disordered, as defined in chapter 630, the division shall refer  
5 the child to the department of mental health for evaluation. The  
6 evaluation shall be performed within twenty days by a mental  
7 health facility or regional center operated by the department of  
8 mental health and, if practicable, on an outpatient basis, for  
9 the purpose of determining whether inpatient care at a mental  
10 health facility or residential habilitation in a [mental  
11 retardation] developmental disability facility is appropriate  
12 because the child meets the criteria specified in subsection 2 of  
13 section 211.202 or in section 633.120, respectively.

14 2. If, as a result of the evaluation, the director of the  
15 department of mental health, or his designee, determines that the  
16 child is not mentally disordered so as to require inpatient care  
17 and treatment in a mental health facility or residential  
18 habilitation in a [mental retardation] developmental disability  
19 facility, the director, or his designee, shall so notify the  
20 director of the division of youth services. If the child was  
21 evaluated on an inpatient or residential basis, the child shall  
22 be returned to the division of youth services.

23 3. If the director of the department of mental health, or  
24 his designee, determines that the child requires inpatient care  
25 and treatment at a mental health facility operated by the  
26 department of mental health or residential habilitation in a  
27 [mental retardation] developmental disability facility operated  
28 by the department of mental health, the director, or his



1     designee, shall notify the director of the division of youth  
2     services that admission is appropriate. The director of the  
3     division may transfer the physical custody of the child to the  
4     department of mental health for admission to a department of  
5     mental health facility and the department of mental health shall  
6     accept the transfer subject to the availability of suitable  
7     accommodations.

8             4. The director of the department of mental health, or his  
9     designee, shall cause an individualized treatment or habilitation  
10    plan to be prepared by the mental health facility or [mental  
11    retardation] developmental disability facility for each child.  
12    The mental health facility or [mental retardation] developmental  
13    disability facility shall review the status of the child at least  
14    once every thirty days. If, as a result of any such review, it  
15    is determined that inpatient care and treatment at a mental  
16    health facility or residential habilitation in a [mental  
17    retardation] developmental disability facility is no longer  
18    appropriate for the child because the child does not meet the  
19    criteria specified in subsection 2 of section 211.202 or in  
20    section 633.120, respectively, the director of the department of  
21    mental health, or his designee, shall so notify the director of  
22    the division of youth services and shall return the child to the  
23    custody of the division.

24             5. If a child for any reason ceases to come under the  
25    jurisdiction of the division of youth services, he may be  
26    retained in a mental health facility or [mental retardation]  
27    developmental disability facility only as otherwise provided by  
28    law.

211.447. 1. Any information that could justify the filing of a petition to terminate parental rights may be referred to the juvenile officer by any person. The juvenile officer shall make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should be filed, such officer shall so notify the informant in writing within thirty days of the referral. Such notification shall include the reasons that the petition will not be filed. Thereupon, the informant may bring the matter directly to the attention of the judge of the juvenile court by presenting the information in writing, and if it appears to the judge that the information could justify the filing of a petition, the judge may order the juvenile officer to take further action, including making a further preliminary inquiry or filing a petition.

2. Except as provided for in subsection 4 of this section, a petition to terminate the parental rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, when:

(1) Information available to the juvenile officer or the division establishes that the child has been in foster care for at least fifteen of the most recent twenty-two months; or

(2) A court of competent jurisdiction has determined the child to be an abandoned infant. For purposes of this subdivision, an "infant" means any child one year of age or under at the time of filing of the petition. The court may find that an infant has been abandoned if:

1           (a) The parent has left the child under circumstances that  
2 the identity of the child was unknown and could not be  
3 ascertained, despite diligent searching, and the parent has not  
4 come forward to claim the child; or

5           (b) The parent has, without good cause, left the child  
6 without any provision for parental support and without making  
7 arrangements to visit or communicate with the child, although  
8 able to do so; or

9           (3) A court of competent jurisdiction has determined that  
10 the parent has:

11           (a) Committed murder of another child of the parent; or

12           (b) Committed voluntary manslaughter of another child of  
13 the parent; or

14           (c) Aided or abetted, attempted, conspired or solicited to  
15 commit such a murder or voluntary manslaughter; or

16           (d) Committed a felony assault that resulted in serious  
17 bodily injury to the child or to another child of the parent.

18           3. A termination of parental rights petition shall be filed  
19 by the juvenile officer or the division, or if such a petition  
20 has been filed by another party, the juvenile officer or the  
21 division shall seek to be joined as a party to the petition,  
22 within sixty days of the judicial determinations required in  
23 subsection 2 of this section, except as provided in subsection 4  
24 of this section. Failure to comply with this requirement shall  
25 not deprive the court of jurisdiction to adjudicate a petition  
26 for termination of parental rights which is filed outside of  
27 sixty days.

28           4. If grounds exist for termination of parental rights

1 pursuant to subsection 2 of this section, the juvenile officer or  
2 the division may, but is not required to, file a petition to  
3 terminate the parental rights of the child's parent or parents  
4 if:

5 (1) The child is being cared for by a relative; or

6 (2) There exists a compelling reason for determining that  
7 filing such a petition would not be in the best interest of the  
8 child, as documented in the permanency plan which shall be made  
9 available for court review; or

10 (3) The family of the child has not been provided such  
11 services as provided for in section 211.183.

12 5. The juvenile officer or the division may file a petition  
13 to terminate the parental rights of the child's parent when it  
14 appears that one or more of the following grounds for termination  
15 exist:

16 (1) The child has been abandoned. For purposes of this  
17 subdivision a "child" means any child over one year of age at the  
18 time of filing of the petition. The court shall find that the  
19 child has been abandoned if, for a period of six months or  
20 longer:

21 (a) The parent has left the child under such circumstances  
22 that the identity of the child was unknown and could not be  
23 ascertained, despite diligent searching, and the parent has not  
24 come forward to claim the child; or

25 (b) The parent has, without good cause, left the child  
26 without any provision for parental support and without making  
27 arrangements to visit or communicate with the child, although  
28 able to do so;

1           (2) The child has been abused or neglected. In determining  
2 whether to terminate parental rights pursuant to this  
3 subdivision, the court shall consider and make findings on the  
4 following conditions or acts of the parent:

5           (a) A mental condition which is shown by competent evidence  
6 either to be permanent or such that there is no reasonable  
7 likelihood that the condition can be reversed and which renders  
8 the parent unable to knowingly provide the child the necessary  
9 care, custody and control;

10           (b) Chemical dependency which prevents the parent from  
11 consistently providing the necessary care, custody and control of  
12 the child and which cannot be treated so as to enable the parent  
13 to consistently provide such care, custody and control;

14           (c) A severe act or recurrent acts of physical, emotional  
15 or sexual abuse toward the child or any child in the family by  
16 the parent, including an act of incest, or by another under  
17 circumstances that indicate that the parent knew or should have  
18 known that such acts were being committed toward the child or any  
19 child in the family; or

20           (d) Repeated or continuous failure by the parent, although  
21 physically or financially able, to provide the child with  
22 adequate food, clothing, shelter, or education as defined by law,  
23 or other care and control necessary for the child's physical,  
24 mental, or emotional health and development.

25  
26 Nothing in this subdivision shall be construed to permit  
27 discrimination on the basis of disability or disease;

28           (3) The child has been under the jurisdiction of the

1 juvenile court for a period of one year, and the court finds that  
2 the conditions which led to the assumption of jurisdiction still  
3 persist, or conditions of a potentially harmful nature continue  
4 to exist, that there is little likelihood that those conditions  
5 will be remedied at an early date so that the child can be  
6 returned to the parent in the near future, or the continuation of  
7 the parent-child relationship greatly diminishes the child's  
8 prospects for early integration into a stable and permanent home.  
9 In determining whether to terminate parental rights under this  
10 subdivision, the court shall consider and make findings on the  
11 following:

12 (a) The terms of a social service plan entered into by the  
13 parent and the division and the extent to which the parties have  
14 made progress in complying with those terms;

15 (b) The success or failure of the efforts of the juvenile  
16 officer, the division or other agency to aid the parent on a  
17 continuing basis in adjusting his circumstances or conduct to  
18 provide a proper home for the child;

19 (c) A mental condition which is shown by competent evidence  
20 either to be permanent or such that there is no reasonable  
21 likelihood that the condition can be reversed and which renders  
22 the parent unable to knowingly provide the child the necessary  
23 care, custody and control;

24 (d) Chemical dependency which prevents the parent from  
25 consistently providing the necessary care, custody and control  
26 over the child and which cannot be treated so as to enable the  
27 parent to consistently provide such care, custody and control; or

28 (4) The parent has been found guilty or pled guilty to a

1 felony violation of chapter 566 when the child or any child in  
2 the family was a victim, or a violation of section 568.020 when  
3 the child or any child in the family was a victim. As used in  
4 this subdivision, a "child" means any person who was under  
5 eighteen years of age at the time of the crime and who resided  
6 with such parent or was related within the third degree of  
7 consanguinity or affinity to such parent; or

8 (5) The child was conceived and born as a result of an act  
9 of forcible rape. When the biological father has pled guilty to,  
10 or is convicted of, the forcible rape of the birth mother, such a  
11 plea or conviction shall be conclusive evidence supporting the  
12 termination of the biological father's parental rights; or

13 (6) The parent is unfit to be a party to the parent and  
14 child relationship because of a consistent pattern of committing  
15 a specific abuse, including but not limited to, abuses as defined  
16 in section 455.010, child abuse or drug abuse before the child or  
17 of specific conditions directly relating to the parent and child  
18 relationship either of which are determined by the court to be of  
19 a duration or nature that renders the parent unable, for the  
20 reasonably foreseeable future, to care appropriately for the  
21 ongoing physical, mental or emotional needs of the child. It is  
22 presumed that a parent is unfit to be a party to the parent-child  
23 relationship upon a showing that within a three-year period  
24 immediately prior to the termination adjudication, the parent's  
25 parental rights to one or more other children were involuntarily  
26 terminated pursuant to subsection 2 or 4 of this section or  
27 subdivisions (1), (2), (3) or (4) of subsection 5 of this section  
28 or similar laws of other states.

1           6. The juvenile court may terminate the rights of a parent  
2 to a child upon a petition filed by the juvenile officer or the  
3 division, or in adoption cases, by a prospective parent, if the  
4 court finds that the termination is in the best interest of the  
5 child and when it appears by clear, cogent and convincing  
6 evidence that grounds exist for termination pursuant to  
7 subsection 2, 4 or 5 of this section.

8           7. When considering whether to terminate the parent-child  
9 relationship pursuant to subsection 2 or 4 of this section or  
10 subdivision (1), (2), (3) or (4) of subsection 5 of this section,  
11 the court shall evaluate and make findings on the following  
12 factors, when appropriate and applicable to the case:

13           (1) The emotional ties to the birth parent;

14           (2) The extent to which the parent has maintained regular  
15 visitation or other contact with the child;

16           (3) The extent of payment by the parent for the cost of  
17 care and maintenance of the child when financially able to do so  
18 including the time that the child is in the custody of the  
19 division or other child-placing agency;

20           (4) Whether additional services would be likely to bring  
21 about lasting parental adjustment enabling a return of the child  
22 to the parent within an ascertainable period of time;

23           (5) The parent's disinterest in or lack of commitment to  
24 the child;

25           (6) The conviction of the parent of a felony offense that  
26 the court finds is of such a nature that the child will be  
27 deprived of a stable home for a period of years; provided,  
28 however, that incarceration in and of itself shall not be grounds



1 for termination of parental rights;

2 (7) Deliberate acts of the parent or acts of another of  
3 which the parent knew or should have known that subjects the  
4 child to a substantial risk of physical or mental harm.

5 8. The court may attach little or no weight to infrequent  
6 visitations, communications, or contributions. It is irrelevant  
7 in a termination proceeding that the maintenance of the  
8 parent-child relationship may serve as an inducement for the  
9 parent's rehabilitation.

10 9. In actions for adoption pursuant to chapter 453, the  
11 court may hear and determine the issues raised in a petition for  
12 adoption containing a prayer for termination of parental rights  
13 filed with the same effect as a petition permitted pursuant to  
14 subsection 2, 4, or 5 of this section.

15 10. The disability or disease of a parent shall not  
16 constitute a basis for a determination that a child is a child in  
17 need of care, for the removal of custody of a child from the  
18 parent, or for the termination of parent rights without a  
19 specific showing that there is a causal relation between the  
20 disability or disease and harm to the child.

21 301.143. 1. As used in this section, the term "vehicle"  
22 shall have the same meaning given it in section 301.010, and the  
23 term "physically disabled" shall have the same meaning given it  
24 in section 301.142.

25 2. Political subdivisions of the state may by ordinance or  
26 resolution designate parking spaces for the exclusive use of  
27 vehicles which display a distinguishing license plate or card  
28 issued pursuant to section 301.071 or 301.142. Owners of private

1 property used for public parking shall also designate parking  
2 spaces for the exclusive use of vehicles which display a  
3 distinguishing license plate or card issued pursuant to section  
4 301.071 or 301.142. Whenever a political subdivision or owner of  
5 private property so designates a parking space, the space shall  
6 be indicated by a sign upon which shall be inscribed the  
7 international symbol of accessibility and ~~[shall]~~ may also  
8 include any appropriate wording such as "Accessible Parking" to  
9 indicate that the space is reserved for the exclusive use of  
10 vehicles which display a distinguishing license plate or card.  
11 The sign described in this subsection shall also state, or an  
12 additional sign shall be posted below or adjacent to the sign  
13 stating, the following: "\$50 to \$300 fine.". Beginning August  
14 28, 2011, when any political subdivision or owner of private  
15 property restripes a parking lot or constructs a new parking lot,  
16 one in every four accessible spaces, but not less than one, shall  
17 be served by an access aisle a minimum of ninety-six inches wide  
18 and shall be designated "lift van accessible only" with signs  
19 that meet the requirements of the federal Americans with  
20 Disabilities Act, as amended, and any rules or regulations  
21 established pursuant thereto.

22 3. Any political subdivision, by ordinance or resolution,  
23 and any person or corporation in lawful possession of a public  
24 off-street parking facility or any other owner of private  
25 property may designate reserved parking spaces for the exclusive  
26 use of vehicles which display a distinguishing license plate or  
27 card issued pursuant to section 301.071 or 301.142 as close as  
28 possible to the nearest accessible entrance. Such designation

1 shall be made by posting immediately adjacent to, and visible  
2 from, each space, a sign upon which is inscribed the  
3 international symbol of accessibility, and may also include any  
4 appropriate wording to indicate that the space is reserved for  
5 the exclusive use of vehicles which display a distinguishing  
6 license plate or card.

7 4. The local police or sheriff's department may cause the  
8 removal of any vehicle not displaying a distinguishing license  
9 plate or card on which is inscribed the international symbol of  
10 accessibility and the word "disabled" issued pursuant to section  
11 301.142 or a "disabled veteran" license plate issued pursuant to  
12 section 301.071 or a distinguishing license plate or card issued  
13 by any other state from a space designated for physically  
14 disabled persons if there is posted immediately adjacent to, and  
15 readily visible from, such space a sign on which is inscribed the  
16 international symbol of accessibility and may include any  
17 appropriate wording to indicate that the space is reserved for  
18 the exclusive use of vehicles which display a distinguishing  
19 license plate or card. Any person who parks in a space reserved  
20 for physically disabled persons and is not displaying  
21 distinguishing license plates or a card is guilty of an  
22 infraction and upon conviction thereof shall be punished by a  
23 fine of not less than fifty dollars nor more than three hundred  
24 dollars. Any vehicle which has been removed and which is not  
25 properly claimed within thirty days thereafter shall be  
26 considered to be an abandoned vehicle.

27 5. Spaces designated for use by vehicles displaying the  
28 distinguishing "disabled" license plate issued pursuant to

1 section 301.142 or 301.071 shall meet the requirements of the  
2 federal Americans with Disabilities Act, as amended, and any  
3 rules or regulations established pursuant thereto.

4 Notwithstanding the other provisions of this section, on-street  
5 parking spaces designated by political subdivisions in  
6 residential areas for the exclusive use of vehicles displaying a  
7 distinguishing license plate or card issued pursuant to section  
8 301.071 or 301.142 shall meet the requirements of the federal  
9 Americans with Disabilities Act pursuant to this subsection and  
10 any such space shall have clearly and visibly painted upon it the  
11 international symbol of accessibility and any curb adjacent to  
12 the space shall be clearly and visibly painted blue.

13 6. Any person who, without authorization, uses a  
14 distinguishing license plate or card issued pursuant to section  
15 301.071 or 301.142 to park in a parking space reserved under  
16 authority of this section shall be guilty of a class B  
17 misdemeanor.

18 7. Law enforcement officials may enter upon private  
19 property open to public use to enforce the provisions of this  
20 section and section 301.142, including private property  
21 designated by the owner of such property for the exclusive use of  
22 vehicles which display a distinguishing license plate or card  
23 issued pursuant to section 301.071 or 301.142.

24 8. Nonconforming signs or spaces otherwise required  
25 pursuant to this section which are in use prior to August 28,  
26 **[1997]** 2011, shall not be in violation of this section during the  
27 useful life of such signs or spaces. Under no circumstances  
28 shall the useful life of the nonconforming signs or spaces be

1 extended by means other than those means used to maintain any  
2 sign or space on the owner's property which is not used for  
3 vehicles displaying a disabled license plate.

4 9. Beginning August 28, 2011, all new signs erected under  
5 this section shall not contain the words "Handicap Parking" or  
6 "Handicapped Parking".

7 \_\_\_\_332.021. 1. "The Missouri Dental Board" shall consist of  
8 seven members including five registered and currently licensed  
9 dentists, one registered and currently licensed dental hygienist  
10 with voting authority as limited in subsection 4 of this section,  
11 and one voting public member. Any currently valid certificate of  
12 registration or currently valid specialist's certificate issued  
13 by the Missouri dental board as constituted pursuant to prior law  
14 shall be a valid certificate of registration or a valid  
15 specialist's certificate, as the case may be, upon October 13,  
16 1969, and such certificates shall be valid so long as the holders  
17 thereof comply with the provisions of this chapter.

18 2. Any person other than the public member appointed to the  
19 board as hereinafter provided shall be a dentist or a dental  
20 hygienist who is registered and currently licensed in Missouri,  
21 is a United States citizen, has been a resident of this state for  
22 one year immediately preceding his or her appointment, has  
23 practiced dentistry or dental hygiene for at least five  
24 consecutive years immediately preceding his or her appointment,  
25 shall have graduated from an accredited dental school or dental  
26 hygiene school, and at the time of his or her appointment or  
27 during his or her tenure on the board has or shall have no  
28 connection with or interest in, directly or indirectly, any

1 dental college, dental hygiene school, university, school,  
2 department, or other institution of learning wherein dentistry or  
3 dental hygiene is taught, or with any dental laboratory or other  
4 business enterprise directly related to the practice of dentistry  
5 or dental hygiene.

6 3. The governor shall appoint members to the board by and  
7 with the advice and consent of the senate when a vacancy thereon  
8 occurs either by the expiration of a term or otherwise; provided,  
9 however, that any board member shall serve until his or her  
10 successor is appointed and has qualified. Each appointee, except  
11 where appointed to fill an unexpired term, shall be appointed for  
12 a term of five years. The president of the Missouri Dental  
13 Association in office at the time shall, at least ninety days  
14 prior to the expiration of the term of a board member other than  
15 the dental hygienist or public member, or as soon as feasible  
16 after a vacancy on the board otherwise occurs, submit to the  
17 director of the division of professional registration a list of  
18 five dentists qualified and willing to fill the vacancy in  
19 question, with the request and recommendation that the governor  
20 appoint one of the five persons so listed, and with the list so  
21 submitted, the president of the Missouri Dental Association shall  
22 include in his or her letter of transmittal a description of the  
23 method by which the names were chosen by that association.

24 4. The public member shall be at the time of his or her  
25 appointment a citizen of the United States; a resident of this  
26 state for a period of one year and a registered voter; a person  
27 who is not and never was a member of any profession licensed or  
28 regulated pursuant to this chapter or the spouse of such person;

1 and a person who does not have and never has had a material,  
2 financial interest in either the providing of the professional  
3 services regulated by this chapter, or an activity or  
4 organization directly related to any profession licensed or  
5 regulated pursuant to this chapter. All members, including  
6 public members, shall be chosen from lists submitted by the  
7 director of the division of professional registration. The list  
8 of dentists submitted to the governor shall include the names  
9 submitted to the director of the division of professional  
10 registration by the president of the Missouri Dental Association.  
11 This list shall be a public record available for inspection and  
12 copying under chapter 610. Lists of dental hygienists submitted  
13 to the governor may include names submitted to the director of  
14 the division of professional registration by the president of the  
15 Missouri Dental Hygienists' Association. The duties of the  
16 dental hygienist member shall not include participation in the  
17 determination for or the issuance of a certificate of  
18 registration or a license to practice as a dentist. The duties  
19 of the public member shall not include the determination of the  
20 technical requirements to be met for licensure or whether any  
21 person meets such technical requirements or of the technical  
22 competence or technical judgment of a licensee or a candidate for  
23 licensure.

24 5. The board shall have a seal which shall be in circular  
25 form and which shall impress the word "SEAL" in the center and  
26 around said word the words "Missouri Dental Board". The seal  
27 shall be affixed to such instruments as hereinafter provided and  
28 to any other instruments as the board shall direct.

1           6. The board may sue and be sued as the Missouri dental  
2 board, and its members need not be named as parties. Members of  
3 the board shall not be personally liable, either jointly or  
4 severally, for any act or acts committed in the performance of  
5 their official duties as board members; nor shall any board  
6 member be personally liable for any court costs which accrue in  
7 any action by or against the board.

8           334.120. 1. There is hereby created and established a  
9 board to be known as "The State Board of Registration for the  
10 Healing Arts" for the purpose of registering, licensing and  
11 supervising all physicians and surgeons, and midwives in this  
12 state. The board shall consist of nine members, including one  
13 voting public member, to be appointed by the governor by and with  
14 the advice and consent of the senate, at least five of whom shall  
15 be graduates of professional schools accredited by the Liaison  
16 Committee on Medical Education or recognized by the Educational  
17 Commission for Foreign Medical Graduates, and at least two of  
18 whom shall be graduates of professional schools approved and  
19 accredited as reputable by the American Osteopathic Association,  
20 and all of whom, except the public member, shall be duly licensed  
21 and registered as physicians and surgeons pursuant to the laws of  
22 this state. Each member must be a citizen of the United States  
23 and must have been a resident of this state for a period of at  
24 least one year next preceding his or her appointment and shall  
25 have been actively engaged in the lawful and ethical practice of  
26 the profession of physician and surgeon for at least five years  
27 next preceding his or her appointment. Not more than four  
28 members shall be affiliated with the same political party. All



1 members shall be appointed for a term of four years. Each member  
2 of the board shall receive as compensation an amount set by the  
3 board not to exceed fifty dollars for each day devoted to the  
4 affairs of the board, and shall be entitled to reimbursement of  
5 his or her expenses necessarily incurred in the discharge of his  
6 or her official duties. The president of the Missouri State  
7 Medical Association, for all medical physician appointments, or  
8 the president of the Missouri Association of Osteopathic  
9 Physicians and Surgeons, for all osteopathic physician  
10 appointments, in office at the time shall, at least ninety days  
11 prior to the expiration of the term of the respective board  
12 member, other than the public member, or as soon as feasible  
13 after the appropriate vacancy on the board otherwise occurs,  
14 submit to the director of the division of professional  
15 registration a list of five physicians and surgeons qualified and  
16 willing to fill the vacancy in question, with the request and  
17 recommendation that the governor appoint one of the five persons  
18 so listed, and with the list so submitted, the president of the  
19 Missouri State Medical Association or the Missouri Association of  
20 Osteopathic Physicians and Surgeons, as appropriate, shall  
21 include in his or her letter of transmittal a description of the  
22 method by which the names were chosen by that association.

23 2. The public member shall be at the time of his or her  
24 appointment a citizen of the United States; a resident of this  
25 state for a period of one year and a registered voter; a person  
26 who is not and never was a member of any profession licensed or  
27 regulated pursuant to this chapter or the spouse of such person;  
28 and a person who does not have and never has had a material,

1 financial interest in either the providing of the professional  
2 services regulated by this chapter, or an activity or  
3 organization directly related to any profession licensed or  
4 regulated pursuant to this chapter. All members, including  
5 public members, shall be chosen from lists submitted by the  
6 director of the division of professional registration. The list  
7 of medical physicians or osteopathic physicians submitted to the  
8 governor shall include the names submitted to the director of the  
9 division of professional registration by the president of the  
10 Missouri State Medical Association or the Missouri Association of  
11 Osteopathic Physicians and Surgeons, respectively. This list  
12 shall be a public record available for inspection and copying  
13 under chapter 610. The duties of the public member shall not  
14 include the determination of the technical requirements to be met  
15 for licensure or whether any person meets such technical  
16 requirements or of the technical competence or technical judgment  
17 of a licensee or a candidate for licensure.

18 453.070. 1. Except as provided in subsection 5 of this  
19 section, no decree for the adoption of a child under eighteen  
20 years of age shall be entered for the petitioner or petitioners  
21 in such adoption as ordered by the juvenile court having  
22 jurisdiction, until a full investigation, which includes an  
23 assessment of the adoptive parents, an appropriate postplacement  
24 assessment and a summary of written reports as provided for in  
25 section 453.026, and any other pertinent information relevant to  
26 whether the child is suitable for adoption by the petitioner and  
27 whether the petitioner is suitable as a parent for the child, has  
28 been made. The report shall also include a statement to the

1 effect that the child has been considered as a potential subsidy  
2 recipient.

3 2. Such investigation shall be made, as directed by the  
4 court having jurisdiction, either by the division of family  
5 services of the state department of social services, a juvenile  
6 court officer, a licensed child-placement agency, a social worker  
7 licensed pursuant to chapter 337, or other suitable person  
8 appointed by the court. The results of such investigation shall  
9 be embodied in a written report that shall be submitted to the  
10 court within ninety days of the request for the investigation.

11 3. The department of social services, division of family  
12 services, shall develop rules and regulations regarding the  
13 content of the assessment of the petitioner or petitioners. The  
14 content of the assessment shall include but not be limited to, a  
15 report on the condition of the petitioner's home and information  
16 on the petitioner's education, financial, marital, medical and  
17 psychological status and criminal background check. If an  
18 assessment is conducted after August 28, 1997, but prior to the  
19 promulgation of rules and regulations by the department  
20 concerning the contents of such assessment, any discrepancy  
21 between the contents of the actual assessment and the contents of  
22 the assessment required by department rule shall not be used as  
23 the sole basis for invalidating an adoption. No rule or portion  
24 of a rule promulgated pursuant to the authority of this section  
25 shall become effective unless it has been promulgated pursuant to  
26 the provisions of chapter 536.

27 4. The assessment of petitioner or petitioners shall be  
28 submitted to the petitioner and to the court prior to the

1 scheduled hearing of the adoptive petition.

2 5. In cases where the adoption or custody involves a child  
3 under eighteen years of age that is the natural child of one of  
4 the petitioners and where all of the parents required by this  
5 chapter to give consent to the adoption or transfer of custody  
6 have given such consent, the juvenile court may waive the  
7 investigation and report, except the criminal background check,  
8 and enter the decree for the adoption or order the transfer of  
9 custody without such investigation and report.

10 6. In the case of an investigation and report made by the  
11 division of family services by order of the court, the court may  
12 order the payment of a reasonable fee by the petitioner to cover  
13 the costs of the investigation and report.

14 7. Any adult person or persons over the age of eighteen,  
15 who, as foster parent or parents, have cared for a foster child  
16 continuously for a period of nine months or more and bonding has  
17 occurred as evidenced by the positive emotional and physical  
18 interaction between the foster parent and child, may apply to  
19 such authorized agency for the placement of such child with them  
20 for the purpose of adoption if the child is eligible for  
21 adoption. The agency and court shall give preference and first  
22 consideration for adoptive placements to foster parents.  
23 However, the final determination of the propriety of the adoption  
24 of such foster child shall be within the sole discretion of the  
25 court.

26 8. (1) Nothing in this section shall be construed to  
27 permit discrimination on the basis of disability or disease of a  
28 prospective adoptive parent.

1       (2) The disability or disease of a prospective adoptive  
2       parent shall not constitute a basis for a determination that the  
3       petitioner is unfit or not suitable to be an adoptive parent  
4       without a specific showing that there is a causal relationship  
5       between the disability or disease and a substantial and  
6       significant risk of harm to a child.

7           475.121. 1. Pursuant to an application alleging that the  
8       admission of the ward to a particular mental health or [mental  
9       retardation] developmental disability facility is appropriate and  
10      in the best interest of the ward, the court may authorize the  
11      guardian or limited guardian to admit the ward to such facility.  
12      Such application shall be accompanied by a physician's statement  
13      setting forth the factual basis for the need for continued  
14      admission including a statement of the ward's current diagnosis,  
15      plan of care, treatment or habilitation and the probable duration  
16      of the admission.

17           2. If the court finds that the application establishes the  
18      need for inpatient care, habilitation or treatment of the ward in  
19      a mental health or [mental retardation] developmental disability  
20      facility without the adduction of further evidence, it shall  
21      issue an order authorizing the guardian to admit the ward to such  
22      facility in accordance with the provisions of section 632.120 or  
23      section 633.120.

24           3. The court may, in its discretion, appoint an attorney to  
25      represent the ward. The attorney shall meet with the ward and  
26      may request a hearing on the application. If a hearing is  
27      requested, the court shall set the application for hearing. If  
28      there is no request for hearing, the court may rule on the

1 application without a hearing. The attorney for the ward shall  
2 be allowed a reasonable fee for his services rendered to be  
3 assessed as costs under section 475.085.

4 4. Proceedings under this section may be combined with  
5 adjudication proceedings under section 475.075.

6 475.355. 1. If, upon the filing of a petition for the  
7 adjudication of incapacity or disability it appears that the  
8 respondent, by reason of a mental disorder or [mental  
9 retardation] intellectual disability or developmental disability,  
10 presents a likelihood of serious physical harm to himself or  
11 others, he may be detained in accordance with the provisions of  
12 chapter 632 if suffering from a mental disorder, or chapter 633  
13 if [mentally retarded] the person has an intellectual or  
14 developmental disability, pending a hearing on the petition for  
15 adjudication.

16 2. As used in this section, the terms "mental disorder" and  
17 "mental retardation" shall be as defined in chapter 630 and the  
18 term "likelihood of serious physical harm to himself or others"  
19 shall be as defined in chapter 632.

20 3. The procedure for obtaining an order of temporary  
21 emergency detention shall be as prescribed by chapter 632,  
22 relating to prehearing detention of mentally disordered persons.

23 476.537. In the event that any judge leaving no surviving  
24 spouse or any surviving spouse receiving benefits under section  
25 476.535 as a beneficiary dies leaving dependents who are unable  
26 to care for or support themselves because of any [mental  
27 retardation] intellectual disability or developmental disability,  
28 disease or disability, or any physical [handicap or] disability,

1 the benefits that would be received by a surviving spouse on the  
2 judge's death if there were a surviving spouse or the benefits  
3 received by such surviving spouse, as the case may be, shall be  
4 paid to such surviving dependent for the remainder of such  
5 dependent's life. If the judge or such surviving spouse leaves  
6 more than one dependent who would be eligible for benefits under  
7 this section, then each eligible dependent shall receive a pro  
8 rata share of the amount that would be paid to a surviving spouse  
9 under section 476.535.

10 552.015. 1. Evidence that the defendant did or did not  
11 suffer mental disease or defect shall not be admissible in a  
12 criminal prosecution except as provided in this section.

13 2. Evidence that the defendant did or did not suffer from a  
14 mental disease or defect shall be admissible in a criminal  
15 proceeding:

16 (1) To determine whether the defendant lacks capacity to  
17 understand the proceedings against him or to assist in his own  
18 defense as provided in section 552.020;

19 (2) To determine whether the defendant is criminally  
20 responsible as provided in section 552.030;

21 (3) To determine whether a person committed to the director  
22 of the department of mental health pursuant to this chapter shall  
23 be released as provided in section 552.040;

24 (4) To determine if a person in the custody of any  
25 correctional institution needs care in a mental hospital as  
26 provided in section 552.050;

27 (5) To determine whether a person condemned to death shall  
28 be executed as provided in sections 552.060 and 552.070;

1           (6) To determine whether or not the defendant, if found  
2 guilty, should be sentenced to death as provided in chapter 558;

3           (7) To determine the appropriate disposition of a  
4 defendant, if guilty, as provided in sections 557.011 and  
5 557.031;

6           (8) To prove that the defendant did or did not have a state  
7 of mind which is an element of the offense;

8           (9) To determine if the defendant, if found not guilty by  
9 reason of mental disease or defect, should be immediately  
10 conditionally released by the court under the provisions of  
11 section 552.040 to the community or committed to a mental health  
12 or [mental retardation] developmental disability facility. This  
13 question shall not be asked regarding defendants charged with any  
14 of the dangerous felonies as defined in section 556.061, or with  
15 those crimes set forth in subsection 11 of section 552.040, or  
16 the attempts thereof.

17           552.020. 1. No person who as a result of mental disease or  
18 defect lacks capacity to understand the proceedings against him  
19 or to assist in his own defense shall be tried, convicted or  
20 sentenced for the commission of an offense so long as the  
21 incapacity endures.

22           2. Whenever any judge has reasonable cause to believe that  
23 the accused lacks mental fitness to proceed, he shall, upon his  
24 own motion or upon motion filed by the state or by or on behalf  
25 of the accused, by order of record, appoint one or more private  
26 psychiatrists or psychologists, as defined in section 632.005, or  
27 physicians with a minimum of one year training or experience in  
28 providing treatment or services to [mentally retarded or mentally



1    ill individuals] persons with an intellectual disability or  
2    developmental disability or mental illness, who are neither  
3    employees nor contractors of the department of mental health for  
4    purposes of performing the examination in question, to examine  
5    the accused; or shall direct the director to have the accused so  
6    examined by one or more psychiatrists or psychologists, as  
7    defined in section 632.005, or physicians with a minimum of one  
8    year training or experience in providing treatment or services to  
9    [mentally retarded or mentally ill individuals] persons with an  
10   intellectual disability, developmental disability, or mental  
11   illness. The order shall direct that a written report or reports  
12   of such examination be filed with the clerk of the court. No  
13   private physician, psychiatrist, or psychologist shall be  
14   appointed by the court unless he has consented to act. The  
15   examinations ordered shall be made at such time and place and  
16   under such conditions as the court deems proper; except that, if  
17   the order directs the director of the department to have the  
18   accused examined, the director, or his designee, shall determine  
19   the time, place and conditions under which the examination shall  
20   be conducted. The order may include provisions for the interview  
21   of witnesses and may require the provision of police reports to  
22   the department for use in evaluations. The department shall  
23   establish standards and provide training for those individuals  
24   performing examinations pursuant to this section and section  
25   552.030. No individual who is employed by or contracts with the  
26   department shall be designated to perform an examination pursuant  
27   to this chapter unless the individual meets the qualifications so  
28   established by the department. Any examination performed

1 pursuant to this subsection shall be completed and filed with the  
2 court within sixty days of the order unless the court for good  
3 cause orders otherwise. Nothing in this section or section  
4 552.030 shall be construed to permit psychologists to engage in  
5 any activity not authorized by chapter 337. One pretrial  
6 evaluation shall be provided at no charge to the defendant by the  
7 department. All costs of subsequent evaluations shall be  
8 assessed to the party requesting the evaluation.

9 3. A report of the examination made under this section  
10 shall include:

11 (1) Detailed findings;

12 (2) An opinion as to whether the accused has a mental  
13 disease or defect;

14 (3) An opinion based upon a reasonable degree of medical or  
15 psychological certainty as to whether the accused, as a result of  
16 a mental disease or defect, lacks capacity to understand the  
17 proceedings against him or to assist in his own defense;

18 (4) A recommendation as to whether the accused should be  
19 held in custody in a suitable hospital facility for treatment  
20 pending determination, by the court, of mental fitness to  
21 proceed; and

22 (5) A recommendation as to whether the accused, if found by  
23 the court to be mentally fit to proceed, should be detained in  
24 such hospital facility pending further proceedings.

25 4. If the accused has pleaded lack of responsibility due to  
26 mental disease or defect or has given the written notice provided  
27 in subsection 2 of section 552.030, the court shall order the  
28 report of the examination conducted pursuant to this section to

1 include, in addition to the information required in subsection 3  
2 of this section, an opinion as to whether at the time of the  
3 alleged criminal conduct the accused, as a result of mental  
4 disease or defect, did not know or appreciate the nature,  
5 quality, or wrongfulness of his conduct or as a result of mental  
6 disease or defect was incapable of conforming his conduct to the  
7 requirements of law. A plea of not guilty by reason of mental  
8 disease or defect shall not be accepted by the court in the  
9 absence of any such pretrial evaluation which supports such a  
10 defense. In addition, if the accused has pleaded not guilty by  
11 reason of mental disease or defect, and the alleged crime is not  
12 a dangerous felony as defined in section 556.061, or those crimes  
13 set forth in subsection 11 of section 552.040, or the attempts  
14 thereof, the court shall order the report of the examination to  
15 include an opinion as to whether or not the accused should be  
16 immediately conditionally released by the court pursuant to the  
17 provisions of section 552.040 or should be committed to a mental  
18 health or [mental retardation] developmental disability facility.  
19 If such an evaluation is conducted at the direction of the  
20 director of the department of mental health, the court shall also  
21 order the report of the examination to include an opinion as to  
22 the conditions of release which are consistent with the needs of  
23 the accused and the interest of public safety, including, but not  
24 limited to, the following factors:

25 (1) Location and degree of necessary supervision of  
26 housing;

27 (2) Location of and responsibilities for appropriate  
28 psychiatric, rehabilitation and aftercare services, including the

1 frequency of such services;

2 (3) Medication follow-up, including necessary testing to  
3 monitor medication compliance;

4 (4) At least monthly contact with the department's forensic  
5 case monitor;

6 (5) Any other conditions or supervision as may be warranted  
7 by the circumstances of the case.

8 5. If the report contains the recommendation that the  
9 accused should be committed to or held in a suitable hospital  
10 facility pending determination of the issue of mental fitness to  
11 proceed, and if the accused is not admitted to bail or released  
12 on other conditions, the court may order that the accused be  
13 committed to or held in a suitable hospital facility pending  
14 determination of the issue of mental fitness to proceed.

15 6. The clerk of the court shall deliver copies of the  
16 report to the prosecuting or circuit attorney and to the accused  
17 or his counsel. The report shall not be a public record or open  
18 to the public. Within ten days after the filing of the report,  
19 both the defendant and the state shall, upon written request, be  
20 entitled to an order granting them an examination of the accused  
21 by a psychiatrist or psychologist, as defined in section 632.005,  
22 or a physician with a minimum of one year training or experience  
23 in providing treatment or services to [mentally retarded or  
24 mentally ill individuals] persons with an intellectual disability  
25 or developmental disability or mental illness, of their own  
26 choosing and at their own expense. An examination performed  
27 pursuant to this subsection shall be completed and a report filed  
28 with the court within sixty days of the date it is received by

1 the department or private psychiatrist, psychologist or physician  
2 unless the court, for good cause, orders otherwise. A copy shall  
3 be furnished the opposing party.

4 7. If neither the state nor the accused nor his counsel  
5 requests a second examination relative to fitness to proceed or  
6 contests the findings of the report referred to in subsections 2  
7 and 3 of this section, the court may make a determination and  
8 finding on the basis of the report filed or may hold a hearing on  
9 its own motion. If any such opinion is contested, the court  
10 shall hold a hearing on the issue. The court shall determine the  
11 issue of mental fitness to proceed and may impanel a jury of six  
12 persons to assist in making the determination. The report or  
13 reports may be received in evidence at any hearing on the issue  
14 but the party contesting any opinion therein shall have the right  
15 to summon and to cross-examine the examiner who rendered such  
16 opinion and to offer evidence upon the issue.

17 8. At a hearing on the issue pursuant to subsection 7 of  
18 this section, the accused is presumed to have the mental fitness  
19 to proceed. The burden of proving that the accused does not have  
20 the mental fitness to proceed is by a preponderance of the  
21 evidence and the burden of going forward with the evidence is on  
22 the party raising the issue. The burden of going forward shall  
23 be on the state if the court raises the issue.

24 9. If the court determines that the accused lacks mental  
25 fitness to proceed, the criminal proceedings shall be suspended  
26 and the court shall commit him to the director of the department  
27 of mental health.

28 10. Any person committed pursuant to subsection 9 of this

1 section shall be entitled to the writ of habeas corpus upon  
2 proper petition to the court that committed him. The issue of  
3 the mental fitness to proceed after commitment under subsection 9  
4 of this section may also be raised by a motion filed by the  
5 director of the department of mental health or by the state,  
6 alleging the mental fitness of the accused to proceed. A report  
7 relating to the issue of the accused's mental fitness to proceed  
8 may be attached thereto. If the motion is not contested by the  
9 accused or his counsel or if after a hearing on a motion the  
10 court finds the accused mentally fit to proceed, or if he is  
11 ordered discharged from the director's custody upon a habeas  
12 corpus hearing, the criminal proceedings shall be resumed.

13 11. The following provisions shall apply after a commitment  
14 as provided in this section:

15 (1) Six months after such commitment, the court which  
16 ordered the accused committed shall order an examination by the  
17 head of the facility in which the accused is committed, or a  
18 qualified designee, to ascertain whether the accused is mentally  
19 fit to proceed and if not, whether there is a substantial  
20 probability that the accused will attain the mental fitness to  
21 proceed to trial in the foreseeable future. The order shall  
22 direct that written report or reports of the examination be filed  
23 with the clerk of the court within thirty days and the clerk  
24 shall deliver copies to the prosecuting attorney or circuit  
25 attorney and to the accused or his counsel. The report required  
26 by this subsection shall conform to the requirements under  
27 subsection 3 of this section with the additional requirement that  
28 it include an opinion, if the accused lacks mental fitness to

1 proceed, as to whether there is a substantial probability that  
2 the accused will attain the mental fitness to proceed in the  
3 foreseeable future;

4 (2) Within ten days after the filing of the report, both  
5 the accused and the state shall, upon written request, be  
6 entitled to an order granting them an examination of the accused  
7 by a psychiatrist or psychologist, as defined in section 632.005,  
8 or a physician with a minimum of one year training or experience  
9 in providing treatment or services to [mentally retarded or  
10 mentally ill individuals] persons with an intellectual disability  
11 or developmental disability or mental illness, of their own  
12 choosing and at their own expense. An examination performed  
13 pursuant to this subdivision shall be completed and filed with  
14 the court within thirty days unless the court, for good cause,  
15 orders otherwise. A copy shall be furnished to the opposing  
16 party;

17 (3) If neither the state nor the accused nor his counsel  
18 requests a second examination relative to fitness to proceed or  
19 contests the findings of the report referred to in subdivision  
20 (1) of this subsection, the court may make a determination and  
21 finding on the basis of the report filed, or may hold a hearing  
22 on its own motion. If any such opinion is contested, the court  
23 shall hold a hearing on the issue. The report or reports may be  
24 received in evidence at any hearing on the issue but the party  
25 contesting any opinion therein relative to fitness to proceed  
26 shall have the right to summon and to cross-examine the examiner  
27 who rendered such opinion and to offer evidence upon the issue;

28 (4) If the accused is found mentally fit to proceed, the

1 criminal proceedings shall be resumed;

2 (5) If it is found that the accused lacks mental fitness to  
3 proceed but there is a substantial probability the accused will  
4 be mentally fit to proceed in the reasonably foreseeable future,  
5 the court shall continue such commitment for a period not longer  
6 than six months, after which the court shall reinstitute the  
7 proceedings required under subdivision (1) of this subsection;

8 (6) If it is found that the accused lacks mental fitness to  
9 proceed and there is no substantial probability that the accused  
10 will be mentally fit to proceed in the reasonably foreseeable  
11 future, the court shall dismiss the charges without prejudice and  
12 the accused shall be discharged, but only if proper proceedings  
13 have been filed under chapter 632 or chapter 475, in which case  
14 those sections and no others will be applicable. The probate  
15 division of the circuit court shall have concurrent jurisdiction  
16 over the accused upon the filing of a proper pleading to  
17 determine if the accused shall be involuntarily detained under  
18 chapter 632, or to determine if the accused shall be declared  
19 incapacitated under chapter 475, and approved for admission by  
20 the guardian under section 632.120 or 633.120, to a mental health  
21 or [retardation] developmental disability facility. When such  
22 proceedings are filed, the criminal charges shall be dismissed  
23 without prejudice if the court finds that the accused is mentally  
24 ill and should be committed or that he is incapacitated and  
25 should have a guardian appointed. The period of limitation on  
26 prosecuting any criminal offense shall be tolled during the  
27 period that the accused lacks mental fitness to proceed.

28 12. If the question of the accused's mental fitness to



1 proceed was raised after a jury was impaneled to try the issues  
2 raised by a plea of not guilty and the court determines that the  
3 accused lacks the mental fitness to proceed or orders the accused  
4 committed for an examination pursuant to this section, the court  
5 may declare a mistrial. Declaration of a mistrial under these  
6 circumstances, or dismissal of the charges pursuant to subsection  
7 11 of this section, does not constitute jeopardy, nor does it  
8 prohibit the trial, sentencing or execution of the accused for  
9 the same offense after he has been found restored to competency.

10 13. The result of any examinations made pursuant to this  
11 section shall not be a public record or open to the public.

12 14. No statement made by the accused in the course of any  
13 examination or treatment pursuant to this section and no  
14 information received by any examiner or other person in the  
15 course thereof, whether such examination or treatment was made  
16 with or without the consent of the accused or upon his motion or  
17 upon that of others, shall be admitted in evidence against the  
18 accused on the issue of guilt in any criminal proceeding then or  
19 thereafter pending in any court, state or federal. A finding by  
20 the court that the accused is mentally fit to proceed shall in no  
21 way prejudice the accused in a defense to the crime charged on  
22 the ground that at the time thereof he was afflicted with a  
23 mental disease or defect excluding responsibility, nor shall such  
24 finding by the court be introduced in evidence on that issue nor  
25 otherwise be brought to the notice of the jury.

26 552.030. 1. A person is not responsible for criminal  
27 conduct if, at the time of such conduct, as a result of mental  
28 disease or defect such person was incapable of knowing and

1 appreciating the nature, quality, or wrongfulness of such  
2 person's conduct.

3       2. Evidence of mental disease or defect excluding  
4 responsibility shall not be admissible at trial of the accused  
5 unless the accused, at the time of entering such accused's plea  
6 to the charge, pleads not guilty by reason of mental disease or  
7 defect excluding responsibility, or unless within ten days after  
8 a plea of not guilty, or at such later date as the court may for  
9 good cause permit, the accused files a written notice of such  
10 accused's purpose to rely on such defense. Such a plea or notice  
11 shall not deprive the accused of other defenses. The state may  
12 accept a defense of mental disease or defect excluding  
13 responsibility, whether raised by plea or written notice, if the  
14 accused has no other defense and files a written notice to that  
15 effect. The state shall not accept a defense of mental disease  
16 or defect excluding responsibility in the absence of any pretrial  
17 evaluation as described in this section or section 552.020. Upon  
18 the state's acceptance of the defense of mental disease or defect  
19 excluding responsibility, the court shall proceed to order the  
20 commitment of the accused as provided in section 552.040 in cases  
21 of persons acquitted on the ground of mental disease or defect  
22 excluding responsibility, and further proceedings shall be had  
23 regarding the confinement and release of the accused as provided  
24 in section 552.040.

25       3. Whenever the accused has pleaded mental disease or  
26 defect excluding responsibility or has given the written notice  
27 provided in subsection 2 of this section, and such defense has  
28 not been accepted as provided in subsection 2 of this section,

1 the court shall, after notice and upon motion of either the state  
2 or the accused, by order of record, appoint one or more private  
3 psychiatrists or psychologists, as defined in section 632.005, or  
4 physicians with a minimum of one year training or experience in  
5 providing treatment or services to [mentally retarded or mentally  
6 ill individuals] persons with an intellectual disability or  
7 developmental disability or mental illness, who are neither  
8 employees nor contractors of the department of mental health for  
9 purposes of performing the examination in question, to examine  
10 the accused, or shall direct the director of the department of  
11 mental health, or the director's designee, to have the accused so  
12 examined by one or more psychiatrists or psychologists, as  
13 defined in section 632.005, or physicians with a minimum of one  
14 year training or experience in providing treatment or services to  
15 [mentally retarded or mentally ill individuals] persons with an  
16 intellectual disability or developmental disability or mental  
17 illness designated by the director, or the director's designee,  
18 as qualified to perform examinations pursuant to this chapter.  
19 The order shall direct that written report or reports of such  
20 examination be filed with the clerk of the court. No private  
21 psychiatrist, psychologist, or physician shall be appointed by  
22 the court unless such psychiatrist, psychologist or physician has  
23 consented to act. The examinations ordered shall be made at such  
24 time and place and under such conditions as the court deems  
25 proper; except that, if the order directs the director of the  
26 department of mental health to have the accused examined, the  
27 director, or the director's designee, shall determine the time,  
28 place and conditions under which the examination shall be

1 conducted. The order may include provisions for the interview of  
2 witnesses and may require the provision of police reports to the  
3 department for use in evaluation. If an examination provided in  
4 section 552.020 was made and the report of such examination  
5 included an opinion as to whether, at the time of the alleged  
6 criminal conduct, the accused, as a result of mental disease or  
7 defect, did not know or appreciate the nature, quality or  
8 wrongfulness of such accused's conduct or as a result of mental  
9 disease or defect was incapable of conforming such accused's  
10 conduct to the requirements of law, such report may be received  
11 in evidence, and no new examination shall be required by the  
12 court unless, in the discretion of the court, another examination  
13 is necessary. If an examination is ordered pursuant to this  
14 section, the report shall contain the information required in  
15 subsections 3 and 4 of section 552.020. Within ten days after  
16 receiving a copy of such report, both the accused and the state  
17 shall, upon written request, be entitled to an order granting  
18 them an examination of the accused by an examiner of such  
19 accused's or its own choosing and at such accused's or its  
20 expense. The clerk of the court shall deliver copies of the  
21 report or reports to the prosecuting or circuit attorney and to  
22 the accused or his counsel. No reports required by this  
23 subsection shall be public records or be open to the public. Any  
24 examination performed pursuant to this subsection shall be  
25 completed and the results shall be filed with the court within  
26 sixty days of the date it is received by the department or  
27 private psychiatrist, psychologist or physician unless the court,  
28 for good cause, orders otherwise.

1           4. If the report contains the recommendation that the  
2 accused should be held in custody in a suitable hospital facility  
3 pending trial, and if the accused is not admitted to bail, or  
4 released on other conditions, the court may order that the  
5 accused be committed to or held in a suitable hospital facility  
6 pending trial.

7           5. No statement made by the accused in the course of any  
8 such examination and no information received by any physician or  
9 other person in the course thereof, whether such examination was  
10 made with or without the consent of the accused or upon the  
11 accused's motion or upon that of others, shall be admitted in  
12 evidence against the accused on the issue of whether the accused  
13 committed the act charged against the accused in any criminal  
14 proceeding then or thereafter pending in any court, state or  
15 federal. The statement or information shall be admissible in  
16 evidence for or against the accused only on the issue of the  
17 accused's mental condition, whether or not it would otherwise be  
18 deemed to be a privileged communication. If the statement or  
19 information is admitted for or against the accused on the issue  
20 of the accused's mental condition, the court shall, both orally  
21 at the time of its admission and later by instruction, inform the  
22 jury that it must not consider such statement or information as  
23 any evidence of whether the accused committed the act charged  
24 against the accused.

25           6. All persons are presumed to be free of mental disease or  
26 defect excluding responsibility for their conduct, whether or not  
27 previously adjudicated in this or any other state to be or to  
28 have been sexual or social psychopaths, or incompetent; provided,

1     however, the court may admit evidence presented at such  
2     adjudication based on its probative value. The issue of whether  
3     any person had a mental disease or defect excluding  
4     responsibility for such person's conduct is one for the trier of  
5     fact to decide upon the introduction of substantial evidence of  
6     lack of such responsibility. But, in the absence of such  
7     evidence, the presumption shall be conclusive. Upon the  
8     introduction of substantial evidence of lack of such  
9     responsibility, the presumption shall not disappear and shall  
10    alone be sufficient to take that issue to the trier of fact. The  
11    jury shall be instructed as to the existence and nature of such  
12    presumption when requested by the state and, where the issue of  
13    such responsibility is one for the jury to decide, the jury shall  
14    be told that the burden rests upon the accused to show by a  
15    preponderance or greater weight of the credible evidence that the  
16    defendant was suffering from a mental disease or defect excluding  
17    responsibility at the time of the conduct charged against the  
18    defendant. At the request of the defense the jury shall be  
19    instructed by the court as to the contents of subsection 2 of  
20    section 552.040.

21         7. When the accused is acquitted on the ground of mental  
22    disease or defect excluding responsibility, the verdict and the  
23    judgment shall so state as well as state the offense for which  
24    the accused was acquitted. The clerk of the court shall furnish  
25    a copy of any judgment or order of commitment to the department  
26    of mental health pursuant to this section to the criminal records  
27    central repository pursuant to section 43.503.

28         552.040. 1. For the purposes of this section, the

1 following words mean:

2 (1) "Prosecutor of the jurisdiction", the prosecuting  
3 attorney in a county or the circuit attorney of a city not within  
4 a county;

5 (2) "Secure facility", a state mental health facility,  
6 state [mental retardation] developmental disability facility,  
7 private facility under contract with the department of mental  
8 health, or a section within any of these facilities, in which  
9 persons committed to the department of mental health pursuant to  
10 this chapter, shall not be permitted to move about the facility  
11 or section of the facility, nor to leave the facility or section  
12 of the facility, without approval by the head of the facility or  
13 such head's designee and adequate supervision consistent with the  
14 safety of the public and the person's treatment, habilitation or  
15 rehabilitation plan;

16 (3) "Tried and acquitted" includes both pleas of mental  
17 disease or defect excluding responsibility that are accepted by  
18 the court and acquittals on the ground of mental disease or  
19 defect excluding responsibility following the proceedings set  
20 forth in section 552.030.

21 2. When an accused is tried and acquitted on the ground of  
22 mental disease or defect excluding responsibility, the court  
23 shall order such person committed to the director of the  
24 department of mental health for custody. The court shall also  
25 order custody and care in a state mental health or retardation  
26 facility unless an immediate conditional release is granted  
27 pursuant to this section. If the accused has not been charged  
28 with a dangerous felony as defined in section 556.061, or with

1 murder in the first degree pursuant to section 565.020, or sexual  
2 assault pursuant to section 566.040, or the attempts thereof, and  
3 the examination contains an opinion that the accused should be  
4 immediately conditionally released to the community by the court,  
5 the court shall hold a hearing to determine if an immediate  
6 conditional release is appropriate pursuant to the procedures for  
7 conditional release set out in subsections 10 to 14 of this  
8 section. Prior to the hearing, the court shall direct the  
9 director of the department of mental health, or the director's  
10 designee, to have the accused examined to determine conditions of  
11 confinement in accordance with subsection 4 of section 552.020.  
12 The provisions of subsection 16 of this section shall be  
13 applicable to defendants granted an immediate conditional release  
14 and the director shall honor the immediate conditional release as  
15 granted by the court. If the court determines that an immediate  
16 conditional release is warranted, the court shall order the  
17 person committed to the director of the department of mental  
18 health before ordering such a release. The court granting the  
19 immediate conditional release shall retain jurisdiction over the  
20 case for the duration of the conditional release. This shall not  
21 limit the authority of the director of the department of mental  
22 health or the director's designee to revoke the conditional  
23 release or the trial release of any committed person pursuant to  
24 subsection 17 of this section. If the accused is committed to a  
25 mental health or **[mental retardation]** developmental disability  
26 facility, the director of the department of mental health, or the  
27 director's designee, shall determine the time, place and  
28 conditions of confinement.



1           3. The provisions of sections 630.110, 630.115, 630.130,  
2   630.133, 630.135, 630.140, 630.145, 630.150, 630.180, 630.183,  
3   630.192, 630.194, 630.196, 630.198, 630.805, 632.370, 632.395,  
4   and 632.435 shall apply to persons committed pursuant to  
5   subsection 2 of this section. If the department does not have a  
6   treatment or rehabilitation program for a mental disease or  
7   defect of an individual, that fact may not be the basis for a  
8   release from commitment. Notwithstanding any other provision of  
9   law to the contrary, no person committed to the department of  
10  mental health who has been tried and acquitted by reason of  
11  mental disease or defect as provided in section 552.030 shall be  
12  conditionally or unconditionally released unless the procedures  
13  set out in this section are followed. Upon request by an  
14  indigent committed person, the appropriate court may appoint the  
15  office of the public defender to represent such person in any  
16  conditional or unconditional release proceeding under this  
17  section.

18           4. Notwithstanding section 630.115, any person committed  
19  pursuant to subsection 2 of this section shall be kept in a  
20  secure facility until such time as a court of competent  
21  jurisdiction enters an order granting a conditional or  
22  unconditional release to a nonsecure facility.

23           5. The committed person or the head of the facility where  
24  the person is committed may file an application in the court that  
25  committed the person seeking an order releasing the committed  
26  person unconditionally; except that any person who has been  
27  denied an application for a conditional release pursuant to  
28  subsection 13 of this section shall not be eligible to file for

1 an unconditional release until the expiration of one year from  
2 such denial. In the case of a person who was immediately  
3 conditionally released after being committed to the department of  
4 mental health, the released person or the director of the  
5 department of mental health, or the director's designee, may file  
6 an application in the same court that released the committed  
7 person seeking an order releasing the committed person  
8 unconditionally. Copies of the application shall be served  
9 personally or by certified mail upon the head of the facility  
10 unless the head of the facility files the application, the  
11 committed person unless the committed person files the  
12 application, or unless the committed person was immediately  
13 conditionally released, the director of the department of mental  
14 health, and the prosecutor of the jurisdiction where the  
15 committed person was tried and acquitted. Any party objecting to  
16 the proposed release must do so in writing within thirty days  
17 after service. Within a reasonable period of time after any  
18 written objection is filed, which period shall not exceed sixty  
19 days unless otherwise agreed upon by the parties, the court shall  
20 hold a hearing upon notice to the committed person, the head of  
21 the facility, if necessary, the director of the department of  
22 mental health, and the prosecutor of the jurisdiction where the  
23 person was tried. Prior to the hearing any of the parties, upon  
24 written application, shall be entitled to an examination of the  
25 committed person, by a psychiatrist or psychologist, as defined  
26 in section 632.005, or a physician with a minimum of one year  
27 training or experience in providing treatment or services to  
28 mentally retarded or mentally ill individuals of its own choosing

1 and at its expense. The report of the mental condition of the  
2 committed person shall accompany the application. By agreement  
3 of all parties to the proceeding any report of the mental  
4 condition of the committed person which may accompany the  
5 application for release or which is filed in objection thereto  
6 may be received by evidence, but the party contesting any opinion  
7 therein shall have the right to summon and to cross-examine the  
8 examiner who rendered such opinion and to offer evidence upon the  
9 issue.

10 6. By agreement of all the parties and leave of court, the  
11 hearing may be waived, in which case an order granting an  
12 unconditional release shall be entered in accordance with  
13 subsection 8 of this section.

14 7. At a hearing to determine if the committed person should  
15 be unconditionally released, the court shall consider the  
16 following factors in addition to any other relevant evidence:

17 (1) Whether or not the committed person presently has a  
18 mental disease or defect;

19 (2) The nature of the offense for which the committed  
20 person was committed;

21 (3) The committed person's behavior while confined in a  
22 mental health facility;

23 (4) The elapsed time between the hearing and the last  
24 reported unlawful or dangerous act;

25 (5) Whether the person has had conditional releases without  
26 incident; and

27 (6) Whether the determination that the committed person is  
28 not dangerous to himself or others is dependent on the person's

1 taking drugs, medicine or narcotics. The burden of persuasion for  
2 any person committed to a mental health facility under the  
3 provisions of this section upon acquittal on the grounds of  
4 mental disease or defect excluding responsibility shall be on the  
5 party seeking unconditional release to prove by clear and  
6 convincing evidence that the person for whom unconditional  
7 release is sought does not have, and in the reasonable future is  
8 not likely to have, a mental disease or defect rendering the  
9 person dangerous to the safety of himself or others.

10 8. The court shall enter an order either denying the  
11 application for unconditional release or granting an  
12 unconditional release. An order denying the application shall be  
13 without prejudice to the filing of another application after the  
14 expiration of one year from the denial of the last application.

15 9. No committed person shall be unconditionally released  
16 unless it is determined through the procedures in this section  
17 that the person does not have, and in the reasonable future is  
18 not likely to have, a mental disease or defect rendering the  
19 person dangerous to the safety of himself or others.

20 10. The committed person or the head of the facility where  
21 the person is committed may file an application in the court  
22 having probate jurisdiction over the facility where the person is  
23 detained for a hearing to determine whether the committed person  
24 shall be released conditionally. In the case of a person  
25 committed to a mental health facility upon acquittal on the  
26 grounds of mental disease or defect excluding responsibility for  
27 a dangerous felony as defined in section 556.061, murder in the  
28 first degree pursuant to section 565.020, or sexual assault

1 pursuant to section 566.040, any such application shall be filed  
2 in the court that committed the person. In such cases,  
3 jurisdiction over the application for conditional release shall  
4 be in the committing court. In the case of a person who was  
5 immediately conditionally released after being committed to the  
6 department of mental health, the released person or the director  
7 of the department of mental health, or the director's designee,  
8 may file an application in the same court that released the  
9 person seeking to amend or modify the existing release. The  
10 procedures for application for unconditional releases set out in  
11 subsection 5 of this section shall apply, with the following  
12 additional requirements:

13 (1) A copy of the application shall also be served upon the  
14 prosecutor of the jurisdiction where the person is being  
15 detained, unless the released person was immediately  
16 conditionally released after being committed to the department of  
17 mental health, or unless the application was required to be filed  
18 in the court that committed the person in which case a copy of  
19 the application shall be served upon the prosecutor of the  
20 jurisdiction where the person was tried and acquitted and the  
21 prosecutor of the jurisdiction into which the committed person is  
22 to be released;

23 (2) The prosecutor of the jurisdiction where the person was  
24 tried and acquitted shall use their best efforts to notify the  
25 victims of dangerous felonies. Notification by the appropriate  
26 person or agency by certified mail to the most current address  
27 provided by the victim shall constitute compliance with the  
28 victim notification requirement of this section;

1           (3) The application shall specify the conditions and  
2 duration of the proposed release;

3           (4) The prosecutor of the jurisdiction where the person is  
4 being detained shall represent the public safety interest at the  
5 hearing unless the prosecutor of the jurisdiction where the  
6 person was tried and acquitted decides to appear to represent the  
7 public safety interest. If the application for release was  
8 required to be filed in the committing court, the prosecutor of  
9 the jurisdiction where the person was tried and acquitted shall  
10 represent the public safety interest. In the case of a person  
11 who was immediately conditionally released after being committed  
12 to the department of mental health, the prosecutor of the  
13 jurisdiction where the person was tried and acquitted shall  
14 appear and represent the public safety interest.

15           11. By agreement of all the parties, the hearing may be  
16 waived, in which case an order granting a conditional release,  
17 stating the conditions and duration agreed upon by all the  
18 parties and the court, shall be entered in accordance with  
19 subsection 13 of this section.

20           12. At a hearing to determine if the committed person  
21 should be conditionally released, the court shall consider the  
22 following factors in addition to any other relevant evidence:

23           (1) The nature of the offense for which the committed  
24 person was committed;

25           (2) The person's behavior while confined in a mental health  
26 facility;

27           (3) The elapsed time between the hearing and the last  
28 reported unlawful or dangerous act;

1           (4) The nature of the person's proposed release plan;

2           (5) The presence or absence in the community of family or  
3 others willing to take responsibility to help the defendant  
4 adhere to the conditions of the release; and

5           (6) Whether the person has had previous conditional  
6 releases without incident. The burden of persuasion for any  
7 person committed to a mental health facility under the provisions  
8 of this section upon acquittal on the grounds of mental disease  
9 or defect excluding responsibility shall be on the party seeking  
10 release to prove by clear and convincing evidence that the person  
11 for whom release is sought is not likely to be dangerous to  
12 others while on conditional release.

13           13. The court shall enter an order either denying the  
14 application for a conditional release or granting conditional  
15 release. An order denying the application shall be without  
16 prejudice to the filing of another application after the  
17 expiration of one year from the denial of the last application.

18           14. No committed person shall be conditionally released  
19 until it is determined that the committed person is not likely to  
20 be dangerous to others while on conditional release.

21           15. If, in the opinion of the head of a facility where a  
22 committed person is being detained, that person can be released  
23 without danger to others, that person may be released from the  
24 facility for a trial release of up to ninety-six hours under the  
25 following procedure:

26           (1) The head of the facility where the person is committed  
27 shall notify the prosecutor of the jurisdiction where the  
28 committed person was tried and acquitted and the prosecutor of

1 the jurisdiction into which the committed person is to be  
2 released at least thirty days before the date of the proposed  
3 trial release;

4 (2) The notice shall specify the conditions and duration of  
5 the release;

6 (3) If no prosecutor to whom notice is required objects to  
7 the trial release, the committed person shall be released  
8 according to conditions and duration specified in the notice;

9 (4) If any prosecutor objects to the trial release, the  
10 head of the facility may file an application with the court  
11 having probate jurisdiction over the facility where the person is  
12 detained for a hearing under the procedures set out in  
13 subsections 5 and 10 of this section with the following  
14 additional requirements:

15 (a) A copy of the application shall also be served upon the  
16 prosecutor of the jurisdiction into which the committed person is  
17 to be released; and

18 (b) The prosecutor or prosecutors who objected to the trial  
19 release shall represent the public safety interest at the  
20 hearing; and

21 (5) The release criteria of subsections 12 to 14 of this  
22 section shall apply at such a hearing.

23 16. The department shall provide or shall arrange for  
24 follow-up care and monitoring for all persons conditionally  
25 released under this section and shall make or arrange for reviews  
26 and visits with the client at least monthly, or more frequently  
27 as set out in the release plan, and whether the client is  
28 receiving care, treatment, habilitation or rehabilitation



1 consistent with his needs, condition and public safety. The  
2 department shall identify the facilities, programs or specialized  
3 services operated or funded by the department which shall provide  
4 necessary levels of follow-up care, aftercare, rehabilitation or  
5 treatment to the persons in geographical areas where they are  
6 released.

7 17. The director of the department of mental health, or the  
8 director's designee, may revoke the conditional release or the  
9 trial release and request the return of the committed person if  
10 such director or coordinator has reasonable cause to believe that  
11 the person has violated the conditions of such release. If  
12 requested to do so by the director or coordinator, a peace  
13 officer of a jurisdiction in which a patient on conditional  
14 release is found shall apprehend and return such patient to the  
15 facility. No peace officer responsible for apprehending and  
16 returning the committed person to the facility upon the request  
17 of the director or coordinator shall be civilly liable for  
18 apprehending or transporting such patient to the facility so long  
19 as such duties were performed in good faith and without  
20 negligence. If a person on conditional release is returned to a  
21 facility under the provisions of this subsection, a hearing shall  
22 be held within ninety-six hours, excluding Saturdays, Sundays and  
23 state holidays, to determine whether the person violated the  
24 conditions of the release or whether resumption of full-time  
25 hospitalization is the least restrictive alternative consistent  
26 with the person's needs and public safety. The director of the  
27 department of mental health, or the director's designee, shall  
28 conduct the hearing. The person shall be given notice at least

1 twenty-four hours in advance of the hearing and shall have the  
2 right to have an advocate present.

3 18. At any time during the period of a conditional release  
4 or trial release, the court which ordered the release may issue a  
5 notice to the released person to appear to answer a charge of a  
6 violation of the terms of the release and the court may issue a  
7 warrant of arrest for the violation. Such notice shall be  
8 personally served upon the released person. The warrant shall  
9 authorize the return of the released person to the custody of the  
10 court or to the custody of the director of mental health or the  
11 director's designee.

12 19. The head of a mental health facility, upon any notice  
13 that a committed person has escaped confinement, or left the  
14 facility or its grounds without authorization, shall immediately  
15 notify the prosecutor and sheriff of the county wherein the  
16 committed person is detained of the escape or unauthorized  
17 leaving of grounds and the prosecutor and sheriff of the county  
18 where the person was tried and acquitted.

19 20. Any person committed to a mental health facility under  
20 the provisions of this section upon acquittal on the grounds of  
21 mental disease or defect excluding responsibility for a dangerous  
22 felony as defined in section 556.061, murder in the first degree  
23 pursuant to section 565.020, or sexual assault pursuant to  
24 section 566.040 shall not be eligible for conditional or  
25 unconditional release under the provisions of this section  
26 unless, in addition to the requirements of this section, the  
27 court finds that the following criteria are met:

28 (1) Such person is not now and is not likely in the

1 reasonable future to commit another violent crime against another  
2 person because of such person's mental illness; and

3 (2) Such person is aware of the nature of the violent crime  
4 committed against another person and presently possesses the  
5 capacity to appreciate the criminality of the violent crime  
6 against another person and the capacity to conform such person's  
7 conduct to the requirements of law in the future.

8 630.003. 1. There is hereby created a department of mental  
9 health to be headed by a mental health commission who shall  
10 appoint a director, by and with the advice and consent of the  
11 senate. The director shall be the administrative head of the  
12 department and shall serve at the pleasure of the commission and  
13 be compensated as provided by law for the director, division of  
14 mental health. All employees of the department shall be selected  
15 in accordance with chapter 36.

16 2. (1) The "State Mental Health Commission", composed of  
17 seven members, is the successor to the former state mental health  
18 commission and it has all the powers, duties and responsibilities  
19 of the former commission. All members of the commission shall be  
20 appointed by the governor, by and with the advice and consent of  
21 the senate. None of the members shall otherwise be employed by  
22 the state of Missouri.

23 (2) Three of the commission members first appointed shall  
24 be appointed for terms of four years, and two shall be appointed  
25 for terms of three years, and two shall be appointed for a term  
26 of two years. The governor shall designate, at the time the  
27 appointments are made, the length of the term of each member so  
28 appointed. Thereafter all terms shall be for four years.

1           (3) At least two of the members of the commission shall be  
2 physicians, one of whom shall be recognized as an expert in the  
3 field of the treatment of nervous and mental diseases, and one of  
4 whom shall be recognized as an expert in the field of [mental  
5 retardation or of other] intellectual or developmental  
6 disabilities. At least two of the members of the commission  
7 shall be representative of persons or groups who are consumers  
8 having substantial interest in the services provided by the  
9 division, one of whom shall represent [the mentally retarded or  
10 developmentally disabled] persons with an intellectual disability  
11 or developmental disability and one of whom shall represent those  
12 persons being treated for nervous and mental diseases. Of the  
13 other three members at least one must be recognized for his  
14 expertise in general business management procedures, and two  
15 shall be recognized for their interest and expertise in dealing  
16 with alcohol/drug abuse problems, or community mental health  
17 services.

18           3. The provisions of sections 191.120, 191.125, 191.130,  
19 191.140, 191.150, 191.160, 191.170, 191.180, 191.190, 191.200,  
20 191.210 and others as they relate to the division of mental  
21 health not previously reassigned by executive reorganization plan  
22 number 2 of 1973 as submitted by the governor under chapter 26  
23 are transferred by specific type transfer from the department of  
24 public health and welfare to the department of mental health.  
25 The division of mental health, department of health and welfare,  
26 chapter 202 and others are abolished and all powers, duties and  
27 functions now assigned by law to the division, the director of  
28 the divisions of mental health or any of the institutions or

1 officials of the division are transferred by type I transfer to  
2 the department of mental health.

3 4. The Missouri institute of psychiatry, which is under the  
4 board of curators of the University of Missouri is hereafter to  
5 be known as the "Missouri Institute of Mental Health". The  
6 purpose of the institute will be that of conducting research into  
7 improving services for persons served by the department of mental  
8 health for fostering the training of psychiatric residents in  
9 public psychiatry and for fostering excellence in mental health  
10 services through employee training and the study of mental health  
11 policy and ethics. To assist in this training, hospitals  
12 operated by and providers contracting with the department of  
13 mental health may be used for the same purposes and under the  
14 same arrangements as the board of curators of the University of  
15 Missouri utilizes with other hospitals in the state in  
16 supervising residency training for medical doctors.

17 Appropriations requests for the Missouri institute of mental  
18 health shall be jointly developed by the University of Missouri  
19 and the department of mental health. All appropriations for the  
20 Missouri institute of mental health shall be made to the curators  
21 of the University of Missouri but shall be submitted separately  
22 from the appropriations of the curators of the University of  
23 Missouri.

24 5. There is hereby established within the department of  
25 mental health a division of [mental retardation and]  
26 developmental disabilities. The director of the division shall  
27 be appointed by the director of the department. The division  
28 shall administer all state facilities under the direction and

1 authority of the department director. The Marshall Habilitation  
2 Center, the Higginsville Habilitation Center, the Bellefontaine  
3 Habilitation Center, the Nevada Habilitation Center, the St.  
4 Louis Developmental Disabilities Treatment Centers, and the  
5 regional centers located at Albany, Columbia, Hannibal, Joplin,  
6 Kansas City, Kirksville, Poplar Bluff, Rolla, St. Louis, Sikeston  
7 and Springfield and other similar facilities as may be  
8 established, are transferred by type I transfer to the division  
9 of [mental retardation and] developmental disabilities.

10 6. All the duties, powers and functions of the advisory  
11 council on mental retardation and community health centers,  
12 sections 202.664 to 202.666, are hereby transferred by type I  
13 transfer to the division of mental retardation and developmental  
14 disabilities of the department of mental health. The advisory  
15 council on mental retardation and community health centers shall  
16 be appointed by the division director.

17 7. The advisory council on mental retardation and  
18 developmental disabilities heretofore established by executive  
19 order and all of the duties, powers and functions of the advisory  
20 council including the responsibilities of the provision of the  
21 council in regard to the Federal Development Disabilities Law  
22 (P.L. 91-517) and all amendments thereto are transferred by type  
23 I transfer to the division of mental retardation and  
24 developmental disabilities. The advisory council on mental  
25 retardation and developmental disabilities shall be appointed by  
26 the director of the division of mental retardation and  
27 developmental disabilities.

28 8. The advisory council on alcoholism and drug abuse,

chapter 202, is transferred by type II transfer to the department of mental health and the members of the advisory council shall be appointed by the mental health director.

630.005. As used in this chapter and chapters 631, 632, and 633, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Administrative entity", a provider of specialized services other than transportation to clients of the department on behalf of a division of the department;

(2) "Alcohol abuse", the use of any alcoholic beverage, which use results in intoxication or in a psychological or physiological dependency from continued use, which dependency induces a mental, emotional or physical impairment and which causes socially dysfunctional behavior;

(3) "Chemical restraint", medication administered with the primary intent of restraining a patient who presents a likelihood of serious physical injury to himself or others, and not prescribed to treat a person's medical condition;

(4) "Client", any person who is placed by the department in a facility or program licensed and funded by the department or who is a recipient of services from a regional center, as defined in section 633.005;

(5) "Commission", the state mental health commission;

(6) "Consumer", a person:

(a) Who qualifies to receive department services; or

(b) Who is a parent, child or sibling of a person who receives department services; or

(c) Who has a personal interest in services provided by the

1 department. A person who provides services to persons affected  
2 by [mental retardation,] intellectual disabilities, developmental  
3 disabilities, mental disorders, mental illness, or alcohol or  
4 drug abuse shall not be considered a consumer;

5 (7) "Day program", a place conducted or maintained by any  
6 person who advertises or holds himself out as providing  
7 prevention, evaluation, treatment, habilitation or rehabilitation  
8 for persons affected by mental disorders, mental illness, [mental  
9 retardation,] intellectual disabilities, developmental  
10 disabilities or alcohol or drug abuse for less than the full  
11 twenty-four hours comprising each daily period;

12 (8) "Department", the department of mental health of the  
13 state of Missouri;

14 (9) "Developmental disability", a disability:

15 (a) Which is attributable to:

16 a. Mental retardation, cerebral palsy, epilepsy, head  
17 injury or autism, or a learning disability related to a brain  
18 dysfunction; or

19 b. Any other mental or physical impairment or combination  
20 of mental or physical impairments; and

21 (b) Is manifested before the person attains age twenty-  
22 two; and

23 (c) Is likely to continue indefinitely; and

24 (d) Results in substantial functional limitations in two or  
25 more of the following areas of major life activities:

26 a. Self-care;

27 b. Receptive and expressive language development and use;

28 c. Learning;



1           d. Self-direction;  
2           e. Capacity for independent living or economic self-  
3 sufficiency;  
4           f. Mobility; and  
5           (e) Reflects the person's need for a combination and  
6 sequence of special, interdisciplinary, or generic care,  
7 habilitation or other services which may be of lifelong or  
8 extended duration and are individually planned and coordinated;  
9           (10) "Director", the director of the department of mental  
10 health, or his designee;

11           (11) "Domiciled in Missouri", a permanent connection  
12 between an individual and the state of Missouri, which is more  
13 than mere residence in the state; it may be established by the  
14 individual being physically present in Missouri with the  
15 intention to abandon his previous domicile and to remain in  
16 Missouri permanently or indefinitely;

17           (12) "Drug abuse", the use of any drug without compelling  
18 medical reason, which use results in a temporary mental,  
19 emotional or physical impairment and causes socially  
20 dysfunctional behavior, or in psychological or physiological  
21 dependency resulting from continued use, which dependency induces  
22 a mental, emotional or physical impairment and causes socially  
23 dysfunctional behavior;

24           (13) "Habilitation", a process of treatment, training, care  
25 or specialized attention which seeks to enhance and maximize [the  
26 mentally retarded or developmentally disabled person's abilities]  
27 a person with an intellectual disability or a developmental  
28 disability to cope with the environment and to live as normally

1 as possible;

2 (14) "Habilitation center", a residential facility operated  
3 by the department and serving only persons who are [mentally  
4 retarded, including] developmentally disabled;

5 (15) "Head of the facility", the chief administrative  
6 officer, or his designee, of any residential facility;

7 (16) "Head of the program", the chief administrative  
8 officer, or his designee, of any day program;

9 (17) "Individualized habilitation plan", a document which  
10 sets forth habilitation goals and objectives for [mentally  
11 retarded or developmentally disabled] residents and clients with  
12 an intellectual disability or a developmental disability, and  
13 which details the habilitation program as required by law, rules  
14 and funding sources;

15 (18) "Individualized rehabilitation plan", a document which  
16 sets forth the care, treatment and rehabilitation goals and  
17 objectives for patients and clients affected by alcohol or drug  
18 abuse, and which details the rehabilitation program as required  
19 by law, rules and funding sources;

20 (19) "Individualized treatment plan", a document which sets  
21 forth the care, treatment and rehabilitation goals and objectives  
22 for [mentally disordered or mentally ill] patients and clients  
23 with mental disorders or mental illness, and which details the  
24 treatment program as required by law, rules and funding sources;

25 (20) "Investigator", an employee or contract agent of the  
26 department of mental health who is performing an investigation  
27 regarding an allegation of abuse or neglect or an investigation  
28 at the request of the director of the department of mental health

1 or his designee;

2 (21) "Least restrictive environment", a reasonably  
3 available setting or mental health program where care, treatment,  
4 habilitation or rehabilitation is particularly suited to the  
5 level and quality of services necessary to implement a person's  
6 individualized treatment, habilitation or rehabilitation plan and  
7 to enable the person to maximize his or her functioning potential  
8 to participate as freely as feasible in normal living activities,  
9 giving due consideration to potentially harmful effects on the  
10 person and the safety of other facility or program clients and  
11 public safety. For some [mentally disordered or mentally  
12 retarded] persons with mental disorders, intellectual  
13 disabilities, or developmental disabilities, the least  
14 restrictive environment may be a facility operated by the  
15 department, a private facility, a supported community living  
16 situation, or an alternative community program designed for  
17 persons who are civilly detained for outpatient treatment or who  
18 are conditionally released pursuant to chapter 632;

19 (22) "Mental disorder", any organic, mental or emotional  
20 impairment which has substantial adverse effects on a person's  
21 cognitive, volitional or emotional function and which constitutes  
22 a substantial impairment in a person's ability to participate in  
23 activities of normal living;

24 (23) "Mental illness", a state of impaired mental  
25 processes, which impairment results in a distortion of a person's  
26 capacity to recognize reality due to hallucinations, delusions,  
27 faulty perceptions or alterations of mood, and interferes with an  
28 individual's ability to reason, understand or exercise conscious

1 control over his actions. The term "mental illness" does not  
2 include the following conditions unless they are accompanied by a  
3 mental illness as otherwise defined in this subdivision:

4 (a) Mental retardation, developmental disability or  
5 narcolepsy;

6 (b) Simple intoxication caused by substances such as  
7 alcohol or drugs;

8 (c) Dependence upon or addiction to any substances such as  
9 alcohol or drugs;

10 (d) Any other disorders such as senility, which are not of  
11 an actively psychotic nature;

12 (24) "Mental retardation", significantly subaverage general  
13 intellectual functioning which:

14 (a) Originates before age eighteen; and

15 (b) Is associated with a significant impairment in adaptive  
16 behavior;

17 (25) "Minor", any person under the age of eighteen years;

18 (26) "Patient", an individual under observation, care,  
19 treatment or rehabilitation by any hospital or other mental  
20 health facility or mental health program pursuant to the  
21 provisions of chapter 632;

22 (27) "Psychosurgery",

23 (a) Surgery on the normal brain tissue of an individual not  
24 suffering from physical disease for the purpose of changing or  
25 controlling behavior; or

26 (b) Surgery on diseased brain tissue of an individual if  
27 the sole object of the surgery is to control, change or affect  
28 behavioral disturbances, except seizure disorders;

1           (28) "Rehabilitation", a process of restoration of a  
2 person's ability to attain or maintain normal or optimum health  
3 or constructive activity through care, treatment, training,  
4 counseling or specialized attention;

5           (29) "Residence", the place where the patient has last  
6 generally lodged prior to admission or, in case of a minor, where  
7 his family has so lodged; except, that admission or detention in  
8 any facility of the department shall not be deemed an absence  
9 from the place of residence and shall not constitute a change in  
10 residence;

11          (30) "Resident", a person receiving residential services  
12 from a facility, other than mental health facility, operated,  
13 funded or licensed by the department;

14          (31) "Residential facility", any premises where residential  
15 prevention, evaluation, care, treatment, habilitation or  
16 rehabilitation is provided for persons affected by mental  
17 disorders, mental illness, [mental retardation] intellectual  
18 disability, developmental disabilities or alcohol or drug abuse;  
19 except the person's dwelling;

20          (32) "Specialized service", an entity which provides  
21 prevention, evaluation, transportation, care, treatment,  
22 habilitation or rehabilitation services to persons affected by  
23 mental disorders, mental illness, [mental retardation,]  
24 intellectual disabilities, developmental disabilities or alcohol  
25 or drug abuse;

26          (33) "Vendor", a person or entity under contract with the  
27 department, other than as a department employee, who provides  
28 services to patients, residents or clients;

1           (34) "Vulnerable person", any person in the custody, care,  
2 or control of the department that is receiving services from an  
3 operated, funded, licensed, or certified program.

4           630.010. 1. The state mental health commission,  
5 established by the omnibus reorganization act of 1974, section 9,  
6 appendix B, RSMo, shall be composed of seven members appointed by  
7 the governor, by and with the advice and consent of the senate.  
8 The terms of members appointed under the reorganization act  
9 before August 13, 1980, shall continue until the terms under  
10 which the members were regularly appointed expire. The terms  
11 shall be for four years. Each commissioner shall hold office  
12 until his successor has been appointed and qualified.

13           2. The commission shall be comprised of members who are not  
14 prohibited from serving by sections 105.450 to 105.482, as  
15 amended, and who are not otherwise employed by the state. The  
16 commission shall be composed of the following:

17           (1) A physician recognized as an expert in the treatment of  
18 mental illness;

19           (2) A physician recognized as an expert in the evaluation  
20 or habilitation of [the mentally retarded and developmentally  
21 disabled] persons with an intellectual disability or  
22 developmental disability;

23           (3) A representative of groups who are consumers or  
24 families of consumers interested in the services provided by the  
25 department in the treatment of mental illness;

26           (4) A representative of groups who are consumers or  
27 families of consumers interested in the services provided by the  
28 department in the habilitation of [the mentally retarded] persons

1 with an intellectual disability or developmental disability;

2 (5) A person recognized for his expertise in general  
3 business matters and procedures;

4 (6) A person recognized for his interest and expertise in  
5 dealing with alcohol or drug abuse; and

6 (7) A person recognized for his interest or expertise in  
7 community mental health services.

8 3. Vacancies occurring on the commission shall be filled by  
9 appointment by the governor, by and with the advice and consent  
10 of the senate, for the unexpired terms. In case of a vacancy  
11 when the senate is not in session, the governor shall make a  
12 temporary appointment until the next session of the general  
13 assembly, when he shall nominate someone to fill the office.

14 4. The commission shall elect from its members a chairman  
15 and a secretary. Meetings shall be held at least once a month,  
16 and special meetings may be held at the call of the chairman.

17 5. The department shall pay the commission members one  
18 hundred dollars per day for each day, or portion thereof, they  
19 actually spend in transacting the business of the commission and  
20 shall reimburse the commission members for necessary expenses  
21 actually incurred in the performance of their official duties.

22 630.053. 1. There is hereby created in the state treasury  
23 a fund to be known as the "Mental Health Earnings Fund". The  
24 state treasurer shall credit to the fund any interest earned from  
25 investing the moneys in the fund. Notwithstanding the provisions  
26 of section 33.080, money in the mental health earnings fund shall  
27 not be transferred and placed to the credit of general revenue at  
28 the end of the biennium.

1           2. Fees received pursuant to the substance abuse traffic  
2 offenders program shall be deposited in the mental health  
3 earnings fund. Such fees shall not be used for personal  
4 services, expenses and equipment or for any demonstration or  
5 other program. No other federal or state funds shall be  
6 deposited in the fund, except for the purposes provided in  
7 subsections 3 [and 4] to 5 of this section. The moneys received  
8 from such fees shall be appropriated solely for assistance in  
9 securing alcohol and drug rehabilitation services for persons who  
10 are unable to pay for the services they receive.

11           3. The mental health earnings fund may be used for the  
12 deposit of revenue received for the provision of services under a  
13 managed care agreement entered into by the department of mental  
14 health. Subject to the approval through the appropriation  
15 process, such revenues may be expended for the purposes of  
16 providing such services pursuant to the managed care agreement  
17 and for no other purpose and shall be accounted for separately  
18 from all other revenues deposited in the fund.

19           4. The mental health earnings fund may, if approved through  
20 the appropriation process, be used for the deposit of revenue  
21 received pursuant to an agreement entered into by the department  
22 of mental health and an alcohol and drug abuse counselor  
23 certification board for the purpose of providing oversight of  
24 counselor certification. Such revenue shall be accounted for  
25 separately from all other revenues deposited in the fund.

26           5. The mental health earnings fund may be used for the  
27 deposit of revenue received from proceeds of any sales and  
28 services from Mental Health First Aid USA. Subject to the



1 approval through the appropriation process, such proceeds shall  
2 be used for the purpose of funding Mental Health First Aid USA  
3 activities and shall be accounted for separately from all other  
4 revenues deposited in the fund.

5 6. The department of mental health shall promulgate rules  
6 and regulations to implement and administer the provisions of  
7 this section. No rule or portion of a rule promulgated pursuant  
8 to the authority of this chapter shall become effective unless it  
9 has been promulgated pursuant to the provisions of section  
10 536.024.

11 630.095. The department may copyright or obtain a trademark  
12 for any instructional, training and informational audio-visual  
13 materials, manuals and documents which are prepared by department  
14 personnel or by persons who receive department funding to prepare  
15 such material. If the material is sold directly or for  
16 distribution, the department shall pay the proceeds of the sales  
17 to the director of revenue for deposit to the general revenue  
18 fund, except for proceeds received under subsection 5 of section  
19 630.053.

20 630.097. 1. The department of mental health shall develop,  
21 in partnership with all departments represented on the children's  
22 services commission, a unified accountable comprehensive  
23 children's mental health service system. The department of  
24 mental health shall establish a state interagency comprehensive  
25 children's mental health service system team comprised of  
26 representation from:

- 27 (1) Family-run organizations and family members;  
28 (2) Child advocate organizations;

(3) The department of health and senior services;

(4) The department of social services' children's division, division of youth services, and the division of medical services;

(5) The department of elementary and secondary education;

(6) The department of mental health's division of alcohol and drug abuse, division of [mental retardation and] developmental disabilities, and the division of comprehensive psychiatric services;

(7) The department of public safety;

(8) The office of state courts administrator;

(9) The juvenile justice system; and

(10) Local representatives of the member organizations of the state team to serve children with emotional and behavioral disturbance problems, developmental disabilities, and substance abuse problems. The team shall be called "The Comprehensive System Management Team". There shall be a stakeholder advisory committee to provide input to the comprehensive system management team to assist the departments in developing strategies and to ensure positive outcomes for children are being achieved. The department of mental health shall obtain input from appropriate consumer and family advocates when selecting family members for the comprehensive system management team, in consultation with the departments that serve on the children's services commission. The implementation of a comprehensive system shall include all state agencies and system partner organizations involved in the lives of the children served. These system partners may include private and not-for-profit organizations and representatives from local system of care teams and these partners may serve on the

1 stakeholder advisory committee. The department of mental health  
2 shall promulgate rules for the implementation of this section in  
3 consultation with all of the departments represented on the  
4 children's services commission.

5 2. The department of mental health shall, in partnership  
6 with the departments serving on the children's services  
7 commission and the stakeholder advisory committee, develop a  
8 state comprehensive children's mental health service system plan.  
9 This plan shall be developed and submitted to the governor, the  
10 general assembly, and children's services commission by December,  
11 2004. There shall be subsequent annual reports that include  
12 progress toward outcomes, monitoring, changes in populations and  
13 services, and emerging issues. The plan shall:

14 (1) Describe the mental health service and support needs of  
15 Missouri's children and their families, including the specialized  
16 needs of specific segments of the population;

17 (2) Define the comprehensive array of services including  
18 services such as intensive home-based services, early  
19 intervention services, family support services, respite services,  
20 and behavioral assistance services;

21 (3) Establish short- and long-term goals, objectives, and  
22 outcomes;

23 (4) Describe and define the parameters for local  
24 implementation of comprehensive children's mental health system  
25 teams;

26 (5) Describe and emphasize the importance of family  
27 involvement in all levels of the system;

28 (6) Describe the mechanisms for financing, and the cost of

1 implementing the comprehensive array of services;

2 (7) Describe the coordination of services across child-  
3 serving agencies and at critical transition points, with emphasis  
4 on the involvement of local schools;

5 (8) Describe methods for service, program, and system  
6 evaluation;

7 (9) Describe the need for, and approaches to, training and  
8 technical assistance; and

9 (10) Describe the roles and responsibilities of the state  
10 and local child-serving agencies in implementing the  
11 comprehensive children's mental health care system.

12 3. The comprehensive system management team shall  
13 collaborate to develop uniform language to be used in intake and  
14 throughout the provision of services.

15 4. The comprehensive children's mental health services  
16 system shall:

17 (1) Be child centered, family focused, strength based, and  
18 family driven, with the needs of the child and family dictating  
19 the types and mix of services provided, and shall include the  
20 families as full participants in all aspects of the planning and  
21 delivery of services;

22 (2) Provide community-based mental health services to  
23 children and their families in the context in which the children  
24 live and attend school;

25 (3) Respond in a culturally competent and responsive  
26 manner;

27 (4) Emphasize prevention, early identification, and  
28 intervention;

(5) Assure access to a continuum of services that:

(a) Educate the community about the mental health needs of children;

(b) Address the unique physical, behavioral, emotional, social, developmental, and educational needs of children;

(c) Are coordinated with the range of social and human services provided to children and their families by local school districts, the departments of social services, health and senior services, and public safety, juvenile offices, and the juvenile and family courts;

(d) Provide a comprehensive array of services through an integrated service plan;

(e) Provide services in the least restrictive most appropriate environment that meets the needs of the child; and

(f) Are appropriate to the developmental needs of children;

(6) Include early screening and prompt intervention to:

(a) Identify and treat the mental health needs of children in the least restrictive environment appropriate to their needs; and

(b) Prevent further deterioration;

(7) Address the unique problems of paying for mental health services for children, including:

(a) Access to private insurance coverage;

(b) Public funding, including:

a. Assuring that funding follows children across departments; and

b. Maximizing federal financial participation;

(c) Private funding and services;

1           (8) Assure a smooth transition from child to adult mental  
2 health services when needed;

3           (9) Coordinate a service delivery system inclusive of  
4 services, providers, and schools that serve children and youth  
5 with emotional and behavioral disturbance problems, and their  
6 families through state agencies that serve on the state  
7 comprehensive children's management team; and

8           (10) Be outcome based.

9           5. By August 28, 2007, and periodically thereafter, the  
10 children's services commission shall conduct and distribute to  
11 the general assembly an evaluation of the implementation and  
12 effectiveness of the comprehensive children's mental health care  
13 system, including an assessment of family satisfaction and the  
14 progress of achieving outcomes.

15           630.120. No patient or resident, either voluntary or  
16 involuntary, shall be presumed to be incompetent, to forfeit any  
17 legal right, responsibility or obligation or to suffer any legal  
18 disability as a citizen, unless otherwise prescribed by law, as a  
19 consequence of receiving evaluation, care, treatment,  
20 habilitation or rehabilitation for a mental disorder, mental  
21 illness, [mental retardation] intellectual disability,  
22 developmental disability, alcohol problem or drug problem.

23           630.165. 1. When any physician, physician assistant,  
24 dentist, chiropractor, optometrist, podiatrist, intern, resident,  
25 nurse, nurse practitioner, medical examiner, social worker,  
26 licensed professional counselor, certified substance abuse  
27 counselor, psychologist, other health practitioner, minister,  
28 Christian Science practitioner, peace officer, pharmacist,

1 physical therapist, facility administrator, nurse's aide, orderly  
2 or any other direct-care staff in a residential facility, day  
3 program, group home or [mental retardation] developmental  
4 disability facility as defined in section 633.005, or specialized  
5 service operated, licensed, certified, or funded by the  
6 department or in a mental health facility or mental health  
7 program in which people may be admitted on a voluntary basis or  
8 are civilly detained pursuant to chapter 632, or employee of the  
9 departments of social services, mental health, or health and  
10 senior services; or home health agency or home health agency  
11 employee; hospital and clinic personnel engaged in examination,  
12 care, or treatment of persons; in-home services owner, provider,  
13 operator, or employee; law enforcement officer, long-term care  
14 facility administrator or employee; mental health professional,  
15 probation or parole officer, or other nonfamilial person with  
16 responsibility for the care of a patient, resident, or client of  
17 a facility, program, or service has reasonable cause to suspect  
18 that a patient, resident or client of a facility, program or  
19 service has been subjected to abuse or neglect or observes such  
20 person being subjected to conditions or circumstances that would  
21 reasonably result in abuse or neglect, he or she shall  
22 immediately report or cause a report to be made to the department  
23 in accordance with section 630.163.

24 2. Any person who knowingly fails to make a report as  
25 required in subsection 1 of this section is guilty of a class A  
26 misdemeanor and shall be subject to a fine up to one thousand  
27 dollars. Penalties collected for violations of this section  
28 shall be transferred to the state school moneys fund as

1 established in section 166.051 and distributed to the public  
2 schools of this state in the manner provided in section 163.031.  
3 Such penalties shall not considered charitable for tax purposes.

4 3. Every person who has been previously convicted of or  
5 pled guilty to failing to make a report as required in subsection  
6 1 of this section and who is subsequently convicted of failing to  
7 make a report under subsection 2 of this section is guilty of a  
8 class D felony and shall be subject to a fine up to five thousand  
9 dollars. Penalties collected for violation of this subsection  
10 shall be transferred to the state school moneys fund as  
11 established in section 166.051 and distributed to the public  
12 schools of this state in the manner provided in section 163.031.  
13 Such penalties shall not considered charitable for tax purposes.

14 4. Any person who knowingly files a false report of  
15 vulnerable person abuse or neglect is guilty of a class A  
16 misdemeanor and shall be subject to a fine up to one thousand  
17 dollars. Penalties collected for violations of this subsection  
18 shall be transferred to the state school moneys fund as  
19 established in section 166.051 and distributed to the public  
20 schools of this state in the manner provided in section 163.031.  
21 Such penalties shall not considered charitable for tax purposes.

22 5. Every person who has been previously convicted of or  
23 pled guilty to making a false report to the department and who is  
24 subsequently convicted of making a false report under subsection  
25 4 of this section is guilty of a class D felony and shall be  
26 subject to a fine up to five thousand dollars. Penalties  
27 collected for violations of this subsection shall be transferred  
28 to the state school moneys fund as established in section 166.051



1 and distributed to the public schools of this state in the manner  
2 provided in section 163.031. Such penalties shall not considered  
3 charitable for tax purposes.

4 6. Evidence of prior convictions of false reporting shall  
5 be heard by the court, out of the hearing of the jury, prior to  
6 the submission of the case to the jury, and the court shall  
7 determine the existence of the prior convictions.

8 7. Any residential facility, day program, or specialized  
9 service operated, funded, or licensed by the department that  
10 prevents or discourages a patient, resident, [or] client,  
11 employee, or other person from reporting that a patient,  
12 resident, or client of a facility, program, or service has been  
13 abused or neglected shall be subject to loss of their license  
14 issued pursuant to sections 630.705 to 630.760 and civil fines of  
15 up to five thousand dollars for each attempt to prevent or  
16 discourage reporting.

17 630.167. 1. Upon receipt of a report, the department or  
18 the department of health and senior services, if such facility or  
19 program is licensed pursuant to chapter 197, shall initiate an  
20 investigation within twenty-four hours.

21 2. If the investigation indicates possible abuse or neglect  
22 of a patient, resident or client, the investigator shall refer  
23 the complaint together with the investigator's report to the  
24 department director for appropriate action. If, during the  
25 investigation or at its completion, the department has reasonable  
26 cause to believe that immediate removal from a facility not  
27 operated or funded by the department is necessary to protect the  
28 residents from abuse or neglect, the department or the local

1 prosecuting attorney may, or the attorney general upon request of  
2 the department shall, file a petition for temporary care and  
3 protection of the residents in a circuit court of competent  
4 jurisdiction. The circuit court in which the petition is filed  
5 shall have equitable jurisdiction to issue an ex parte order  
6 granting the department authority for the temporary care and  
7 protection of the resident for a period not to exceed thirty  
8 days.

9 3. (1) Except as otherwise provided in this section,  
10 reports referred to in section 630.165 and the investigative  
11 reports referred to in this section shall be confidential, shall  
12 not be deemed a public record, and shall not be subject to the  
13 provisions of section 109.180 or chapter 610. Investigative  
14 reports pertaining to abuse and neglect shall remain confidential  
15 until a final report is complete, subject to the conditions  
16 contained in this section. Final reports of substantiated abuse  
17 or neglect issued on or after August 28, 2007, are open and shall  
18 be available for release in accordance with chapter 610. The  
19 names and all other identifying information in such final  
20 substantiated reports, including diagnosis and treatment  
21 information about the patient, resident, or client who is the  
22 subject of such report, shall be confidential and may only be  
23 released to the patient, resident, or client who has not been  
24 adjudged incapacitated under chapter 475, the custodial parent or  
25 guardian parent, or other guardian of the patient, resident or  
26 client. The names and other descriptive information of the  
27 complainant, witnesses, or other persons for whom findings are  
28 not made against in the final substantiated report shall be

1 confidential and not deemed a public record. Final reports of  
2 unsubstantiated allegations of abuse and neglect shall remain  
3 closed records and shall only be released to the parents or other  
4 guardian of the patient, resident, or client who is the subject  
5 of such report, patient, resident, or client and the department  
6 vendor, provider, agent, or facility where the patient, resident,  
7 or client was receiving department services at the time of the  
8 unsubstantiated allegations of abuse and neglect, but the names  
9 and any other descriptive information of the complainant or any  
10 other person mentioned in the reports shall not be disclosed  
11 unless such complainant or person specifically consents to such  
12 disclosure. Requests for final reports of substantiated or  
13 unsubstantiated abuse or neglect from a patient, resident or  
14 client who has not been adjudged incapacitated under chapter 475  
15 may be denied or withheld if the director of the department or  
16 his or her designee determines that such release would jeopardize  
17 the person's therapeutic care, treatment, habilitation, or  
18 rehabilitation, or the safety of others and provided that the  
19 reasons for such denial or withholding are submitted in writing  
20 to the patient, resident or client who has not been adjudged  
21 incapacitated under chapter 475. All reports referred to in this  
22 section shall be admissible in any judicial proceedings or  
23 hearing in accordance with section [36.390] 621.075 or any  
24 administrative hearing before the director of the department of  
25 mental health, or the director's designee. All such reports may  
26 be disclosed by the department of mental health to law  
27 enforcement officers and public health officers, but only to the  
28 extent necessary to carry out the responsibilities of their

1 offices, and to the department of social services, and the  
2 department of health and senior services, and to boards appointed  
3 pursuant to sections 205.968 to 205.990 that are providing  
4 services to the patient, resident or client as necessary to  
5 report or have investigated abuse, neglect, or rights violations  
6 of patients, residents or clients provided that all such law  
7 enforcement officers, public health officers, department of  
8 social services' officers, department of health and senior  
9 services' officers, and boards shall be obligated to keep such  
10 information confidential.

11 (2) Except as otherwise provided in this section, the  
12 proceedings, findings, deliberations, reports and minutes of  
13 committees of health care professionals as defined in section  
14 537.035 or mental health professionals as defined in section  
15 632.005 who have the responsibility to evaluate, maintain, or  
16 monitor the quality and utilization of mental health services are  
17 privileged and shall not be subject to the discovery, subpoena or  
18 other means of legal compulsion for their release to any person  
19 or entity or be admissible into evidence into any judicial or  
20 administrative action for failure to provide adequate or  
21 appropriate care. Such committees may exist, either within  
22 department facilities or its agents, contractors, or vendors, as  
23 applicable. Except as otherwise provided in this section, no  
24 person who was in attendance at any investigation or committee  
25 proceeding shall be permitted or required to disclose any  
26 information acquired in connection with or in the course of such  
27 proceeding or to disclose any opinion, recommendation or  
28 evaluation of the committee or board or any member thereof;

1 provided, however, that information otherwise discoverable or  
2 admissible from original sources is not to be construed as immune  
3 from discovery or use in any proceeding merely because it was  
4 presented during proceedings before any committee or in the  
5 course of any investigation, nor is any member, employee or agent  
6 of such committee or other person appearing before it to be  
7 prevented from testifying as to matters within their personal  
8 knowledge and in accordance with the other provisions of this  
9 section, but such witness cannot be questioned about the  
10 testimony or other proceedings before any investigation or before  
11 any committee.

12 (3) Nothing in this section shall limit authority otherwise  
13 provided by law of a health care licensing board of the state of  
14 Missouri to obtain information by subpoena or other authorized  
15 process from investigation committees or to require disclosure of  
16 otherwise confidential information relating to matters and  
17 investigations within the jurisdiction of such health care  
18 licensing boards; provided, however, that such information, once  
19 obtained by such board and associated persons, shall be governed  
20 in accordance with the provisions of this subsection.

21 (4) Nothing in this section shall limit authority otherwise  
22 provided by law in subdivisions (5) and (6) of subsection 2 of  
23 section 630.140 concerning access to records by the entity or  
24 agency authorized to implement a system to protect and advocate  
25 the rights of persons with developmental disabilities under the  
26 provisions of 42 U.S.C. Sections 15042 to 15044 and the entity or  
27 agency authorized to implement a system to protect and advocate  
28 the rights of persons with mental illness under the provisions of

1 42 U.S.C. 10801. In addition, nothing in this section shall  
2 serve to negate assurances that have been given by the governor  
3 of Missouri to the U.S. Administration on Developmental  
4 Disabilities, Office of Human Development Services, Department of  
5 Health and Human Services concerning access to records by the  
6 agency designated as the protection and advocacy system for the  
7 state of Missouri. However, such information, once obtained by  
8 such entity or agency, shall be governed in accordance with the  
9 provisions of this subsection.

10 4. Anyone who makes a report pursuant to this section or  
11 who testifies in any administrative or judicial proceeding  
12 arising from the report shall be immune from any civil liability  
13 for making such a report or for testifying unless such person  
14 acted in bad faith or with malicious purpose.

15 5. Within five working days after a report required to be  
16 made pursuant to this section is received, the person making the  
17 report shall be notified in writing of its receipt and of the  
18 initiation of the investigation.

19 6. No person who directs or exercises any authority in a  
20 residential facility, day program or specialized service shall  
21 evict, harass, dismiss or retaliate against a patient, resident  
22 or client or employee because he or she or any member of his or  
23 her family has made a report of any violation or suspected  
24 violation of laws, ordinances or regulations applying to the  
25 facility which he or she has reasonable cause to believe has been  
26 committed or has occurred.

27 7. Any person who is discharged as a result of an  
28 administrative substantiation of allegations contained in a

1 report of abuse or neglect may, after exhausting administrative  
2 remedies as provided in chapter 36, appeal such decision to the  
3 circuit court of the county in which such person resides within  
4 ninety days of such final administrative decision. The court may  
5 accept an appeal up to twenty-four months after the party filing  
6 the appeal received notice of the department's determination,  
7 upon a showing that:

8 (1) Good cause exists for the untimely commencement of the  
9 request for the review;

10 (2) If the opportunity to appeal is not granted it will  
11 adversely affect the party's opportunity for employment; and

12 (3) There is no other adequate remedy at law.

13 630.183. Subject to other provisions of this chapter, the  
14 head of a mental health or [mental retardation] developmental  
15 disability facility may authorize the medical and surgical  
16 treatment of a patient or resident under the following  
17 circumstances:

18 (1) Upon consent of a patient or resident who is competent;

19 (2) Upon consent of a parent or legal guardian of a patient  
20 or resident who is a minor or legally incapacitated;

21 (3) Pursuant to the provisions of chapter 431;

22 (4) Pursuant to an order of a court of competent  
23 jurisdiction.

24 630.192. No biomedical or pharmacological research shall be  
25 conducted in any mental health facility or mental health program  
26 in which people may be civilly detained pursuant to chapter 632  
27 or in any public or private residential facilities or day  
28 programs operated, funded or licensed by the department for

1 persons affected by [mental retardation] intellectual  
2 disabilities, developmental disabilities, mental illness, mental  
3 disorders or alcohol or drug abuse unless such research is  
4 intended to alleviate or prevent the disabling conditions or is  
5 reasonably expected to be of direct therapeutic benefit to the  
6 participants. Without a specific court order, no involuntary  
7 patient shall consent to participate in any biomedical or  
8 pharmacological research. The application for the order shall be  
9 filed in the court having probate jurisdiction in the county in  
10 which the mental health facility is located, provided, however,  
11 that if the patient requests that the hearing be held by the  
12 court which has committed the patient, or if the court having  
13 probate jurisdiction deems it appropriate, the hearing on the  
14 application shall be transferred to the committing court.

15 630.210. 1. The director shall determine the maximum  
16 amount for services which shall be charged in each of the  
17 residential facilities, day programs or specialized services  
18 operated or funded by the department for full-time or part-time  
19 inpatient, resident or outpatient evaluation, care, treatment,  
20 habilitation, rehabilitation or other service rendered to persons  
21 affected by mental disorder, mental illness, [mental  
22 retardation,] intellectual disability, developmental disability,  
23 or drug or alcohol abuse. The maximum charge shall be related to  
24 the per capita inpatient cost or actual outpatient evaluation or  
25 other service costs of each facility, program or service, which  
26 may vary from one locality to another. The director shall  
27 promulgate rules setting forth a reasonable standard means test  
28 which shall be applied by all facilities, programs and services



1     operated or funded by the department in determining the amount to  
2     be charged to persons receiving services. The department shall  
3     pay, out of funds appropriated to it for such purpose, all or  
4     part of the costs for the evaluation, care, treatment,  
5     habilitation, rehabilitation or room and board provided or  
6     arranged by the department for any patient, resident or client  
7     who is domiciled in Missouri and who is unable to pay fully for  
8     services.

9             2. The director shall apply the standard means test  
10     annually and may make application of the test upon his own  
11     initiative or upon request of an interested party whenever  
12     evidence is offered tending to show that the current support  
13     status of any patient, resident or client is no longer proper.  
14     Any change of support status shall be retroactive to the date of  
15     application or request for review. If the persons responsible to  
16     pay under section 630.205 or 552.080 refuse to cooperate in  
17     providing information necessary to properly apply the test or if  
18     retroactive benefits are paid on behalf of the patient, resident  
19     or client, the charges may be retroactive to a date prior to the  
20     date of application or request for review. The decision of the  
21     director in determining the amount to be charged for services to  
22     a patient, resident or client shall be final. Appeals from the  
23     determination may be taken to the circuit court of Cole County or  
24     the county where the person responsible for payment resides in  
25     the manner provided by chapter 536.

26             3. The department shall not pay for services provided to a  
27     patient, resident or client who is not domiciled in Missouri  
28     unless the state is fully reimbursed for the services; except

1 that the department may pay for services provided to a transient  
2 person for up to thirty days pending verification of his  
3 domiciliary state, and for services provided for up to thirty  
4 days in an emergency situation. The director shall promulgate  
5 rules for determination of the domiciliary state of any patient,  
6 resident or client receiving services from a facility, program or  
7 service operated or funded by the department.

8 4. Whenever a patient, resident or client is receiving  
9 services from a residential facility, day program or specialized  
10 service operated or funded by the department, and the state,  
11 county, municipality, parent, guardian or other person  
12 responsible for support of the patient, resident or client fails  
13 to pay any installment required to be paid for support, the  
14 department or the residential facility, day program or  
15 specialized service may discharge the patient, resident or client  
16 as provided by chapter 31. The patient, resident or client shall  
17 not be discharged under this subsection until the final  
18 disposition of any appeal filed under subsection 2 of this  
19 section.

20 5. The standard means test may be waived for a child in  
21 need of mental health services to avoid inappropriate custody  
22 transfers to the children's division. The department of mental  
23 health shall notify the child's parent or custodian that the  
24 standard means test may be waived. The department of mental  
25 health shall promulgate rules for waiving the standard means  
26 test. Any rule or portion of a rule, as that term is defined in  
27 section 536.010, that is created under the authority delegated in  
28 this section shall become effective only if it complies with and

1 is subject to all of the provisions of chapter 536 and, if  
2 applicable, section 536.028. This section and chapter 536 are  
3 nonseverable and if any of the powers vested with the general  
4 assembly pursuant to chapter 536 to review, to delay the  
5 effective date, or to disapprove and annul a rule are  
6 subsequently held unconstitutional, then the grant of rulemaking  
7 authority and any rule proposed or adopted after August 28, 2004,  
8 shall be invalid and void.

9 630.335. 1. With the approval of the director, the head of  
10 any of the department's mental health or [mental retardation]  
11 developmental disability facilities or regional centers may  
12 establish and operate a canteen or commissary for the use and  
13 benefit of patients, residents and employees.

14 2. Each facility or center shall keep revenues received  
15 from the canteen or commissary established and operated by the  
16 head of the facility in a separate account. The acquisition cost  
17 of goods sold and other expenses shall be paid from this account.  
18 A minimum amount of money necessary to meet cash flow needs and  
19 current operating expenses may be kept in this account. The  
20 remaining funds from sales of each commissary or canteen shall be  
21 deposited monthly in the state treasury to the credit of the  
22 mental health trust fund. The money in the fund shall be  
23 expended, upon appropriation, for the benefit of the patients in  
24 the improvement of the recreation, habilitation or treatment  
25 services or equipment of the facility or center from which  
26 derived. The provisions of section 33.080 to the contrary  
27 notwithstanding, the money in the mental health trust fund shall  
28 be retained for the purposes specified in this section and shall

1 not revert or be transferred to general revenue. The department  
2 of mental health shall keep accurate records of the source of  
3 money deposited in the mental health trust fund and shall  
4 allocate appropriations from the fund to the appropriate  
5 institution, facility or center.

6 630.405. 1. The department may purchase services for  
7 patients, residents or clients from private and public vendors in  
8 this state with funds appropriated for this purpose.

9 2. Services that may be purchased may include prevention,  
10 diagnosis, evaluation, treatment, habilitation, rehabilitation,  
11 transportation and other special services for persons affected by  
12 mental disorders, mental illness, [mental retardation,]  
13 intellectual disabilities, developmental disabilities or alcohol  
14 or drug abuse.

15 3. The commissioner of administration, in consultation with  
16 the director, shall promulgate rules establishing procedures  
17 consistent with the usual state purchasing procedures pursuant to  
18 chapter 34 for the purchase of services pursuant to this section.  
19 The commissioner may authorize the department to purchase any  
20 technical service which, in his judgment, can best be purchased  
21 direct pursuant to chapter 34. The commissioner shall cooperate  
22 with the department to purchase timely services appropriate to  
23 the needs of the patients, residents or clients of the  
24 department.

25 4. The commissioner of administration may promulgate rules  
26 authorizing the department to review, suspend, terminate, or  
27 otherwise take remedial measures with respect to contracts with  
28 vendors as defined in subsection 1 of this section that fail to

1 comply with the requirements of section 210.906.

2 5. The commissioner of administration may promulgate rules  
3 for a waiver of chapter 34 bidding procedures for the purchase of  
4 services for patients, residents and clients with funds  
5 appropriated for that purpose if, in the commissioner's judgment,  
6 such services can best be purchased directly by the department.

7 6. No rule or portion of a rule promulgated pursuant to the  
8 authority of this section shall become effective unless it has  
9 been promulgated pursuant to the provisions of chapter 536.

10 630.425. 1. The department may make incentive grants from  
11 funds specifically appropriated for this purpose to private and  
12 public entities seeking to establish a residential facility, day  
13 program or specialized service for persons affected by mental  
14 disorders, mental illness, [mental retardation,] intellectual  
15 disabilities, developmental disabilities or alcohol or drug abuse  
16 in unserved, underserved or inappropriately served areas of the  
17 state.

18 2. The department shall promulgate rules establishing  
19 procedures for monitoring and auditing such grants.

20 3. The grants shall be of limited duration of one year and  
21 renewable for only one additional year if the funds are  
22 appropriated for this purpose.

23 630.510. At least once every three years, the department  
24 shall conduct a complete statewide inventory of its existing  
25 facilities and a survey of needs for persons affected by mental  
26 disorders, mental illness, [mental retardation,] intellectual  
27 disabilities, developmental disabilities and alcohol or drug  
28 abuse, and shall make a public report of its inventory and survey

1 and recommend a state plan for the construction of additional  
2 facilities.

3 630.605. The department shall establish a placement program  
4 for persons affected by a mental disorder, mental illness,  
5 [mental retardation,] intellectual disability, developmental  
6 disability or alcohol or drug abuse. The department may utilize  
7 residential facilities, day programs and specialized services  
8 which are designed to maintain a person who is accepted in the  
9 placement program in the least restrictive environment in  
10 accordance with the person's individualized treatment,  
11 habilitation or rehabilitation plan. The department shall  
12 license, certify and fund, subject to appropriations, a continuum  
13 of facilities, programs and services short of admission to a  
14 department facility to accomplish this purpose.

15 630.610. 1. If the head of a facility operated by the  
16 department determines that placement out of the facility would be  
17 appropriate for any patient or resident, the head of the facility  
18 shall refer the patient or resident for placement according to  
19 the department's rules. If a patient or resident is accepted and  
20 placed under this chapter, then the patient or resident shall be  
21 considered as discharged as a patient or resident of the facility  
22 and reclassified as a client of the department.

23 2. Any person, his authorized representative, his parent,  
24 if the person is a minor, his guardian, a court of competent  
25 jurisdiction or a state or private facility or agency having  
26 custody of the person may apply for placement of the person under  
27 this chapter.

28 3. If the department finds the application to be

1 appropriate after review, it shall provide for or arrange for a  
2 comprehensive evaluation, and the preparation of an  
3 individualized treatment, habilitation or rehabilitation plan of  
4 the person seeking to be placed, whether from a department  
5 facility or directly, to determine if he meets the following  
6 criteria:

7 (1) The person is affected by a mental disorder, mental  
8 illness, [mental retardation,] intellectual disability,  
9 developmental disability or alcohol or drug abuse; and

10 (2) The person is in need of special care, treatment,  
11 habilitation or rehabilitation services as described in this  
12 chapter, including room or board, or both; provided, however,  
13 that no person shall be accepted for placement if the sole reason  
14 for the application or referral is that residential placement is  
15 necessary for a school-aged child, as defined in chapter 162, to  
16 receive an appropriate special education.

17 630.635. 1. If a resident in a [mental retardation]  
18 developmental disability facility, or his parent if he is a  
19 minor, or his legal guardian refuses to consent to the proposed  
20 placement, the head of the [mental retardation] developmental  
21 disability facility may petition, under the procedures in section  
22 633.135, the director of the division of [mental retardation and]  
23 developmental disabilities to determine whether the proposed  
24 placement is appropriate under chapter 633.

25 2. If a patient in a mental health facility, or his parent  
26 if he is a minor, or his legal guardian refuses to consent to the  
27 proposed placement, the head of the mental health facility may  
28 petition the director of the division of comprehensive

1 psychiatric services to determine whether the proposed placement  
2 is appropriate under sections 630.610, 630.615 and 630.620.

3 3. The director of the division of comprehensive  
4 psychiatric services shall refer the petition to the chairman of  
5 the state advisory council for his division who shall appoint and  
6 convene a review panel composed of three members. At least one  
7 member of the panel shall be a family member or guardian of a  
8 patient who resides in a mental health facility operated by the  
9 department. The remaining members of the panel shall be persons  
10 who are from nongovernmental organizations or groups concerned  
11 with the prevention of mental disorders, evaluation, care,  
12 treatment or rehabilitation of persons affected by the same  
13 conditions as the patient the department seeks to place and who  
14 are familiar with services and service needs of persons in mental  
15 health facilities operated by the department. No member of the  
16 panel shall be an officer or employee of the department.

17 4. After prompt notice and hearing, the panel shall  
18 determine whether the proposed placement is appropriate under  
19 sections 630.610, 630.615 and 630.620. The hearing shall be  
20 electronically recorded for purposes of obtaining a transcript.  
21 The council shall forward the tape recording, recommended  
22 findings of fact, conclusions of law, and decision to the  
23 director who shall enter findings of fact, conclusions of law,  
24 and the final decision. Notice of the director's decision shall  
25 be sent to the patient, or his parent if he is a minor, or his  
26 guardian by registered mail, return receipt requested. The  
27 director shall expedite this review in all respects.

28 5. If the patient, or his parent if he is a minor, or his



1 guardian disagrees with the decision of the director, he may  
2 appeal the decision, within thirty days after notice of the  
3 decision is sent, to the circuit court of the county where the  
4 patient or resident, or his parent if he is a minor, or his  
5 guardian resides. The court shall review the record, proceedings  
6 and decision of the director not only under the provisions of  
7 chapter 536, but also as to whether or not the head of the  
8 facility or the department sustained its burden of proof that the  
9 proposed placement is appropriate under sections 630.110, 630.115  
10 and 630.120. The court shall expedite this review in all  
11 respects. Notwithstanding the provisions of section 536.140, a  
12 court may, for good cause shown, hear and consider additional  
13 competent and material evidence.

14 6. The notice and procedure for the hearing by the panel  
15 shall be in accordance with chapter 536.

16 7. In all proceedings either before the panel or before the  
17 circuit court, the burden of proof shall be upon the head of the  
18 facility to demonstrate by a preponderance of evidence that the  
19 proposed placement is appropriate under the criteria set forth in  
20 sections 630.610, 630.615 and 630.120.

21 8. Pending the convening of the hearing panel and the final  
22 decision of the director or the court if the director's decision  
23 is appealed, the department shall not place or discharge the  
24 patient from a facility except that the department may  
25 temporarily transfer such patient in the case of a medical  
26 emergency.

27 9. There shall be no retaliation against any state employee  
28 as the result of a good faith decision to place the patient which

1 is appealed and who testifies during a hearing or otherwise  
2 provides information or evidence in regard to a proposed  
3 placement.

4 630.705. 1. The department shall promulgate rules setting  
5 forth reasonable standards for residential facilities and day  
6 programs for persons who are affected by a mental disorder,  
7 mental illness, [mental retardation] intellectual disability, or  
8 developmental disability.

9 2. The rules shall provide for the facilities and programs  
10 to be reasonably classified as to resident or client population,  
11 size, type of services or other reasonable classification. The  
12 department shall design the rules to promote and regulate safe,  
13 humane and adequate facilities and programs for the care,  
14 treatment, habilitation and rehabilitation of persons described  
15 in subsection 1 of this section.

16 3. The following residential facilities and day programs  
17 shall not be licensed by the department:

18 (1) Any facility or program which relies solely upon the  
19 use of prayer or spiritual healing;

20 (2) Any educational, special educational or vocational  
21 program operated, certified or approved by the state board of  
22 education pursuant to chapters 161, 162 and 178, and regulations  
23 promulgated by the board;

24 (3) Any hospital, facility, program or entity operated by  
25 this state or the United States; except that facilities operated  
26 by the department shall meet these standards;

27 (4) Any hospital, facility or other entity, excluding those  
28 with persons who are mentally retarded and developmentally

1 disabled as defined in section 630.005 otherwise licensed by the  
2 state and operating under such license and within the limits of  
3 such license, unless the majority of the persons served receive  
4 activities and services normally provided by a licensed facility  
5 pursuant to this chapter;

6 (5) Any hospital licensed by the department of social  
7 services as a psychiatric hospital pursuant to chapter 197;

8 (6) Any facility or program accredited by the Joint  
9 Commission on Accreditation of Hospitals, the American  
10 Osteopathic Association, Accreditation Council for Services for  
11 Mentally Retarded or other Developmentally Disabled Persons,  
12 Council on Accreditation of Services for Children and Families,  
13 Inc., or the Commission on Accreditation of Rehabilitation  
14 Facilities;

15 (7) Any facility or program caring for less than four  
16 persons whose care is not funded by the department.

17 630.715. 1. The department shall establish a procedure for  
18 the licensing of residential facilities and day programs for  
19 persons described in section 630.705, which procedure shall  
20 provide for the acceptance of a license, a temporary operating  
21 permit or a probationary license issued by the department of  
22 social services under sections 198.006 to 198.096 as regards the  
23 licensing requirements in the following areas:

24 (1) General medical and health care;

25 (2) Adequate physical plant facilities including fire  
26 safety, housekeeping and maintenance standards;

27 (3) Food service facilities;

28 (4) Safety precautions;

- (5) Drugs and medications;
- (6) Uniform system of record keeping;
- (7) Resident and client rights and grievance procedures.

However, the department shall require annually that any facilities and programs already licensed by the department of social services under chapter 198 which desire to provide services to persons diagnosed [as mentally disordered, mentally ill, mentally retarded or developmentally disabled] with a mental disorder, mental illness, or developmental disability in accordance with sections 630.705 to 630.760 meet the department's requirements in excess of those required for licensure or certification under chapter 198, which are appropriate to admission criteria and care, treatment, habilitation and rehabilitation needs of such persons.

2. Applications for licenses shall be made to the department upon forms provided by it and shall contain such information and documents as the department requires, including, but not limited to, affirmative evidence of ability to comply with the rules adopted by the department. Each application for a license, except applications from a governmental unit or a facility caring for less than four persons, which shall not pay any fee, shall be accompanied by a license fee of ten dollars for establishments which accept more than three but less than ten persons and fifty dollars from establishments which accept ten or more. The license fee shall be paid to the director of revenue for deposit to the general revenue fund of the state treasury.

3. An applicant for a license shall submit an affidavit

1 under oath that all documents required by the department to be  
2 filed pursuant to this section are true and correct to the best  
3 of his knowledge and belief, that the statements contained in the  
4 application are true and correct to the best of his knowledge and  
5 belief and that all required documents are either included with  
6 the application or are currently on file with the department.

7 630.735. 1. No person or governmental unit, acting  
8 separately or jointly with any other person or governmental unit,  
9 shall establish, conduct or maintain any residential facility in  
10 this state for the care, treatment, habilitation or  
11 rehabilitation of [mentally retarded or developmentally disabled]  
12 persons with an intellectual disability or a developmental  
13 disability without a valid license issued by the department.  
14 Licenses in effect on August 13, 1982, shall continue in effect  
15 until they regularly expire unless sooner revoked; except that in  
16 no case shall a license continue in effect beyond one year after  
17 August 13, 1982.

18 2. After October 1, 1983, no person or governmental unit,  
19 acting separately or jointly with any other person or  
20 governmental unit, shall establish, conduct or maintain any  
21 residential facility or day program in this state for care,  
22 treatment, habilitation or rehabilitation of persons diagnosed  
23 [as mentally disordered or mentally ill] with a mental disorder  
24 or mental illness or day program for [mentally retarded or  
25 developmentally disabled] persons with an intellectual disability  
26 or a developmental disability unless the facilities or programs  
27 are licensed by the department.

28 632.005. As used in chapter 631 and this chapter, unless

1 the context clearly requires otherwise, the following terms shall  
2 mean:

3 (1) "Comprehensive psychiatric services", any one, or any  
4 combination of two or more, of the following services to persons  
5 affected by mental disorders other than [mental retardation or]  
6 intellectual disabilities or developmental disabilities:

7 inpatient, outpatient, day program or other partial  
8 hospitalization, emergency, diagnostic, treatment, liaison,  
9 follow-up, consultation, education, rehabilitation, prevention,  
10 screening, transitional living, medical prevention and treatment  
11 for alcohol abuse, and medical prevention and treatment for drug  
12 abuse;

13 (2) "Council", the Missouri advisory council for  
14 comprehensive psychiatric services;

15 (3) "Court", the court which has jurisdiction over the  
16 respondent or patient;

17 (4) "Division", the division of comprehensive psychiatric  
18 services of the department of mental health;

19 (5) "Division director", director of the division of  
20 comprehensive psychiatric services of the department of mental  
21 health, or his designee;

22 (6) "Head of mental health facility", superintendent or  
23 other chief administrative officer of a mental health facility,  
24 or his designee;

25 (7) "Judicial day", any Monday, Tuesday, Wednesday,  
26 Thursday or Friday when the court is open for business, but  
27 excluding Saturdays, Sundays and legal holidays;

28 (8) "Licensed physician", a physician licensed pursuant to

1 the provisions of chapter 334 or a person authorized to practice  
2 medicine in this state pursuant to the provisions of section  
3 334.150;

4 (9) "Licensed professional counselor", a person licensed as  
5 a professional counselor under chapter 337 and with a minimum of  
6 one year training or experience in providing psychiatric care,  
7 treatment, or services in a psychiatric setting to individuals  
8 suffering from a mental disorder;

9 (10) "Likelihood of serious harm" means any one or more of  
10 the following but does not require actual physical injury to have  
11 occurred:

12 (a) A substantial risk that serious physical harm will be  
13 inflicted by a person upon his own person, as evidenced by recent  
14 threats, including verbal threats, or attempts to commit suicide  
15 or inflict physical harm on himself. Evidence of substantial  
16 risk may also include information about patterns of behavior that  
17 historically have resulted in serious harm previously being  
18 inflicted by a person upon himself;

19 (b) A substantial risk that serious physical harm to a  
20 person will result or is occurring because of an impairment in  
21 his capacity to make decisions with respect to his  
22 hospitalization and need for treatment as evidenced by his  
23 current mental disorder or mental illness which results in an  
24 inability to provide for his own basic necessities of food,  
25 clothing, shelter, safety or medical care or his inability to  
26 provide for his own mental health care which may result in a  
27 substantial risk of serious physical harm. Evidence of that  
28 substantial risk may also include information about patterns of

1 behavior that historically have resulted in serious harm to the  
2 person previously taking place because of a mental disorder or  
3 mental illness which resulted in his inability to provide for his  
4 basic necessities of food, clothing, shelter, safety or medical  
5 or mental health care; or

6 (c) A substantial risk that serious physical harm will be  
7 inflicted by a person upon another as evidenced by recent overt  
8 acts, behavior or threats, including verbal threats, which have  
9 caused such harm or which would place a reasonable person in  
10 reasonable fear of sustaining such harm. Evidence of that  
11 substantial risk may also include information about patterns of  
12 behavior that historically have resulted in physical harm  
13 previously being inflicted by a person upon another person;

14 (11) "Mental health coordinator", a mental health  
15 professional who has knowledge of the laws relating to hospital  
16 admissions and civil commitment and who is authorized by the  
17 director of the department, or his designee, to serve a  
18 designated geographic area or mental health facility and who has  
19 the powers, duties and responsibilities provided in this chapter;

20 (12) "Mental health facility", any residential facility,  
21 public or private, or any public or private hospital, which can  
22 provide evaluation, treatment and, inpatient care to persons  
23 suffering from a mental disorder or mental illness and which is  
24 recognized as such by the department or any outpatient treatment  
25 program certified by the department of mental health. No  
26 correctional institution or facility, jail, regional center or  
27 [mental retardation] developmental disability facility shall be a  
28 mental health facility within the meaning of this chapter;



1           (13) "Mental health professional", a psychiatrist, resident  
2 in psychiatry, psychologist, psychiatric nurse, licensed  
3 professional counselor, or psychiatric social worker;

4           (14) "Mental health program", any public or private  
5 residential facility, public or private hospital, public or  
6 private specialized service or public or private day program that  
7 can provide care, treatment, rehabilitation or services, either  
8 through its own staff or through contracted providers, in an  
9 inpatient or outpatient setting to persons with a mental disorder  
10 or mental illness or with a diagnosis of alcohol abuse or drug  
11 abuse which is recognized as such by the department. No  
12 correctional institution or facility or jail may be a mental  
13 health program within the meaning of this chapter;

14           (15) "Ninety-six hours" shall be construed and computed to  
15 exclude Saturdays, Sundays and legal holidays which are observed  
16 either by the court or by the mental health facility where the  
17 respondent is detained;

18           (16) "Peace officer", a sheriff, deputy sheriff, county or  
19 municipal police officer or highway patrolman;

20           (17) "Psychiatric nurse", a registered professional nurse  
21 who is licensed under chapter 335 and who has had at least two  
22 years of experience as a registered professional nurse in  
23 providing psychiatric nursing treatment to individuals suffering  
24 from mental disorders;

25           (18) "Psychiatric social worker", a person with a master's  
26 or further advanced degree from an accredited school of social  
27 work, practicing pursuant to chapter 337, and with a minimum of  
28 one year training or experience in providing psychiatric care,

1 treatment or services in a psychiatric setting to individuals  
2 suffering from a mental disorder;

3 (19) "Psychiatrist", a licensed physician who in addition  
4 has successfully completed a training program in psychiatry  
5 approved by the American Medical Association, the American  
6 Osteopathic Association or other training program certified as  
7 equivalent by the department;

8 (20) "Psychologist", a person licensed to practice  
9 psychology under chapter 337 with a minimum of one year training  
10 or experience in providing treatment or services to mentally  
11 disordered or mentally ill individuals;

12 (21) "Resident in psychiatry", a licensed physician who is  
13 in a training program in psychiatry approved by the American  
14 Medical Association, the American Osteopathic Association or  
15 other training program certified as equivalent by the department;

16 (22) "Respondent", an individual against whom involuntary  
17 civil detention proceedings are instituted pursuant to this  
18 chapter;

19 (23) "Treatment", any effort to accomplish a significant  
20 change in the mental or emotional conditions or the behavior of  
21 the patient consistent with generally recognized principles or  
22 standards in the mental health professions.

23 632.105. 1. The head of a private mental health facility  
24 may, and the head of a department mental health facility shall,  
25 except in the case of a medical emergency and subject to the  
26 availability of suitable programs and accommodations, accept for  
27 evaluation, on an outpatient basis if practicable, any person  
28 eighteen years of age or over who applies for his admission. The

1 department may require that a community-based service where the  
2 person resides perform the evaluation pursuant to an affiliation  
3 agreement and contract with the department.

4 2. If a person is diagnosed as having a mental disorder,  
5 other than [mental retardation] an intellectual disability or  
6 developmental disability without another accompanying mental  
7 disorder, and is determined to be in need of inpatient treatment,  
8 the person may be admitted by a private mental health facility  
9 and shall be admitted by a department mental health facility, if  
10 suitable accommodations are available, for care and treatment as  
11 an inpatient for such periods and under such conditions as  
12 authorized by law. The department may require that a  
13 community-based service where the patient resides admit the  
14 person for inpatient care and treatment pursuant to an  
15 affiliation agreement and contract with the department.

16 3. A person who is admitted under this section is a  
17 voluntary patient and shall have the right to consent to  
18 evaluation, care, treatment and rehabilitation and shall not be  
19 medicated without his prior voluntary and informed consent;  
20 except that medication may be given in emergency situations.

21 632.110. 1. The head of a private mental health facility  
22 may, and the head of a department mental health facility shall,  
23 except in the case of a medical emergency and subject to the  
24 availability of suitable programs and accommodations, accept for  
25 evaluation, on an outpatient basis if practicable, any minor for  
26 whom an application for voluntary admission is made by his parent  
27 or other legal custodian. The department may require that a  
28 community-based service where the minor resides perform the

1 evaluation pursuant to an affiliation agreement or contract with  
2 the department.

3 2. If the minor is diagnosed as having a mental disorder,  
4 other than [mental retardation] an intellectual disability or  
5 developmental disability without another accompanying mental  
6 disorder, and found suitable for inpatient treatment as a result  
7 of the evaluation, the minor may be admitted by a private mental  
8 health facility or shall be admitted by a department mental  
9 health facility, if suitable accommodations are available, for  
10 care, treatment and rehabilitation as an inpatient for such  
11 periods and under such conditions as authorized by law. The  
12 department may require that a community-based service where the  
13 patient resides admit the person for inpatient care, treatment  
14 and rehabilitation pursuant to an affiliation agreement and  
15 contract with the department.

16 3. The parent or legal custodian who applied for the  
17 admission of the minor shall have the right to authorize his  
18 evaluation, care, treatment and rehabilitation and the right to  
19 refuse permission to medicate the minor; except that medication  
20 may be given in emergency situations.

21 4. The parent or legal custodian may request a peace  
22 officer to take a minor into custody and transport him to the  
23 mental health facility for evaluation if the parent or legal  
24 custodian applies for such evaluation under subsection 1 of this  
25 section.

26 632.115. The head of a private mental health facility may,  
27 and the head of a public mental health facility shall, except in  
28 the case of medical emergency and subject to the availability of

1 suitable programs and accommodations, admit any minor who has  
2 symptoms of mental disorder other than [mental retardation] an  
3 intellectual disability or developmental disability, who is under  
4 the jurisdiction of a juvenile court and who is committed to a  
5 facility not operated by the state of Missouri under section  
6 211.181 or to the custody of the director pursuant to sections  
7 211.201 to 211.207 for assignment by the director to an  
8 appropriate facility.

9 632.120. 1. The head of a private mental health facility  
10 may, and the head of a department facility shall, except in the  
11 case of a medical emergency and subject to the availability of  
12 suitable programs and accommodations, accept for evaluation and  
13 treatment, on an outpatient basis if practicable, any person who  
14 has been declared incapacitated by a court of competent  
15 jurisdiction and for whom an application for voluntary admission  
16 is made by his guardian. The department may require that a  
17 community-based service where the person resides perform the  
18 evaluation pursuant to an affiliation agreement and contract with  
19 the department.

20 2. If the person is diagnosed as having a mental disorder,  
21 other than [mental retardation or] developmental disability  
22 without another accompanying mental disorder, and the person is  
23 found suitable for inpatient treatment as a result of the  
24 evaluation, the person may be admitted by a private mental health  
25 facility or shall be admitted by a public mental health facility,  
26 if suitable accommodations are available, for care, treatment and  
27 rehabilitation as an inpatient for up to thirty days after  
28 admission for evaluation and treatment.

1           3. If further inpatient services are recommended, the  
2 person may remain in the facility only if his guardian is  
3 authorized by the court to continue the inpatient  
4 hospitalization. The court may authorize the guardian to consent  
5 to evaluation, care, treatment, including medication, and  
6 rehabilitation on an inpatient basis.

7           632.370. 1. The department may transfer, or authorize the  
8 transfer of, an involuntary patient detained under this chapter,  
9 chapter 211, chapter 475, or chapter 552 from one mental health  
10 program to another if the department determines that it would be  
11 consistent with the medical needs of the patient to do so. If a  
12 minor is transferred from a ward for minors to an adult ward, the  
13 department shall conduct a due process hearing within six days of  
14 such transfer during which hearing the head of the program shall  
15 have the burden to show that the transfer is appropriate for the  
16 medical needs of the minor. Whenever a patient is transferred,  
17 written notice thereof shall be given after obtaining the consent  
18 of the patient, his parent if he is a minor or his legal guardian  
19 to his legal guardian, parents and spouse, or, if none be known,  
20 his nearest known relative or friend. In all such transfers, due  
21 consideration shall be given to the relationship of the patient  
22 to his family, legal guardian or friends, so as to maintain  
23 relationships and encourage visits beneficial to the patient.  
24 The head of the mental health program shall notify the court  
25 ordering detention or commitment, the patient's last known  
26 attorney of record and the mental health coordinator for the  
27 region, and if the person was committed pursuant to chapter 552,  
28 to the prosecuting attorney of the jurisdiction where the person

1 was tried and acquitted, of any transfer from one mental health  
2 facility to another. The prosecutor of the jurisdiction where  
3 the person was tried and acquitted shall use their best efforts  
4 to notify the victims of dangerous felonies. Notification by the  
5 appropriate person or agency by certified mail to the most  
6 current address provided by the victim shall constitute  
7 compliance with the victim notification requirement of this  
8 section. In the case of a patient committed under chapter 211,  
9 the court, on its own motion, may hold a hearing on the transfer  
10 to determine whether such transfer is appropriate to the medical  
11 needs of the patient.

12 2. Upon receipt of a certificate of an agency of the United  
13 States that facilities are available for the care or treatment of  
14 any individual heretofore ordered involuntarily detained, treated  
15 and evaluated pursuant to this chapter in any facility for the  
16 care or treatment of [the mentally ill, mentally retarded or  
17 developmentally disabled] persons with a mental illness or an  
18 intellectual disability or a developmental disability and that  
19 such individual is eligible for care or treatment in a hospital  
20 or institution of such agency, the department may cause his  
21 transfer to such agency of the United States for hospitalization.  
22 Upon effecting any such transfer, the court ordering  
23 hospitalization, the legal guardian, spouse and parents, or, if  
24 none be known, his nearest known relative or friend shall be  
25 notified thereof immediately by the department. No person shall  
26 be transferred to an agency of the United States if he is  
27 confined pursuant to a conviction for any felony or misdemeanor  
28 or if he has been acquitted of any felony or misdemeanor solely

1 on the ground of mental illness, unless prior to transfer the  
2 court originally ordering confinement of such person enters an  
3 order for the transfer after appropriate motion and hearing. Any  
4 person transferred to an agency of the United States shall be  
5 deemed to be hospitalized by such agency pursuant to the original  
6 order of hospitalization.

7 632.380. Persons [who are mentally retarded,  
8 developmentally disabled,] with an intellectual disability or a  
9 developmental disability or who are senile or impaired by  
10 alcoholism or drug abuse shall not be detained judicially under  
11 this chapter, unless they are also mentally ill and as a result  
12 present likelihood of serious harm to themselves or to others.  
13 Such persons may, however, be committed upon court order under  
14 this chapter and the provisions of chapter 475 relating to  
15 incapacitated persons, pursuant to chapter 211 relating to  
16 juveniles, or may be admitted as voluntary patients under section  
17 632.105 or 632.120.

18 633.005. As used in this chapter, unless the context  
19 clearly requires otherwise, the following terms shall mean:

20 (1) "Comprehensive evaluation", a study, including a  
21 sequence of observations and examinations, of an individual  
22 leading to conclusions and recommendations formulated jointly by  
23 an interdisciplinary team of persons with special training and  
24 experience in the diagnosis and habilitation of [the mentally  
25 retarded and developmentally disabled] a person with an  
26 intellectual disability or a developmental disability;

27 (2) "Division", the division of [mental retardation and]  
28 developmental disabilities of the department of mental health;



1           (3) "Division director", the director of the division of  
2     [mental retardation and] developmental disabilities of the  
3     department of mental health, or his designee;

4           (4) "Group home", a residential facility serving nine or  
5     fewer residents, similar in appearance to a single-family  
6     dwelling and providing basic health supervision, habilitation  
7     training in skills of daily and independent living and community  
8     integration, and social support. Group homes do not include a  
9     family living arrangement or individualized supported living;

10          (5) "[Mental retardation] Developmental disability  
11     facility", a private or department facility, other than a  
12     regional center, which admits persons [who are mentally retarded  
13     or developmentally disabled] with an intellectual disability or a  
14     developmental disability for residential habilitation and other  
15     services and which is qualified or licensed as such by the  
16     department pursuant to chapter 630. Such terms shall include,  
17     but shall not be limited to, habilitation centers and private or  
18     public residential facilities for persons [who are  
19     developmentally disabled] with an intellectual disability or a  
20     developmental disability;

21          (6) "Regional center", an entity so designated by the  
22     department to provide, directly or indirectly, for comprehensive  
23     [mental retardation and] developmental disability services under  
24     this chapter in a particular region;

25          (7) "Respite care", temporary and short-term residential  
26     care, sustenance and supervision of a [mentally retarded or  
27     developmentally disabled] person with an intellectual disability  
28     or a developmental disability who otherwise resides in a family

1 home;

2 (8) "State advisory council", the Missouri [advisory  
3 council on mental retardation and] developmental disabilities  
4 council as created in section 633.020.

5 633.010. 1. The division of [mental retardation and]  
6 developmental disabilities, created by the omnibus reorganization  
7 act of 1974, section 9, appendix B, RSMo, shall be a division of  
8 the department. The division shall have the responsibility of  
9 insuring that [mental retardation] intellectual disabilities and  
10 developmental disabilities prevention, evaluation, care,  
11 habilitation and rehabilitation services are accessible, wherever  
12 possible. The division shall have and exercise supervision of  
13 division residential facilities, day programs and other  
14 specialized services operated by the department, and oversight  
15 over facilities, programs and services funded or licensed by the  
16 department.

17 2. The powers, functions and duties of the division shall  
18 include the following:

19 (1) Provision of funds for the planning and implementation  
20 of accessible programs to serve persons affected by [mental  
21 retardation or] intellectual disabilities and developmental  
22 disabilities;

23 (2) Review of [mental retardation and] developmental  
24 disabilities plans submitted to receive state and federal funds  
25 allocated by the department;

26 (3) Provision of technical assistance and training to  
27 community-based programs to assist in the planning and  
28 implementation of quality services;

1           (4) Assurance of program quality in compliance with such  
2 appropriate standards as may be established by the department;

3           (5) Sponsorship and encouragement of research into the  
4 causes, effects, prevention, habilitation and rehabilitation of  
5 [mental retardation and] intellectual disabilities and  
6 developmental disabilities;

7           (6) Provision of public information relating to [mental  
8 retardation and] developmental disabilities and their  
9 habilitation;

10          (7) Cooperation with nonstate governmental agencies and the  
11 private sector in establishing, conducting, integrating and  
12 coordinating [mental retardation and] developmental disabilities  
13 programs and projects;

14          (8) Cooperation with other state agencies to encourage  
15 appropriate health facilities to serve, without discrimination,  
16 persons [who are mentally retarded or developmentally disabled]  
17 with an intellectual disability or a developmental disability who  
18 require medical care and to provide them with adequate and  
19 appropriate services;

20          (9) Participation in developing and implementing a  
21 statewide plan to alleviate problems relating to [mental  
22 retardation and] developmental disabilities and to overcome the  
23 barriers to their solutions;

24          (10) Encouragement of coordination of division services  
25 with other divisions of the department and other state agencies;

26          (11) Encouragement of the utilization, support, assistance  
27 and dedication of volunteers to assist persons affected by  
28 [mental retardation and] intellectual disabilities or

1 developmental disabilities to be accepted and integrated into  
2 normal community activities;

3 (12) Evaluation, or the requirement of the evaluation,  
4 including the collection of appropriate necessary information, of  
5 [mental retardation or] developmental disabilities programs to  
6 determine their cost-and-benefit effectiveness;

7 (13) Participation in developing standards for residential  
8 facilities, day programs and specialized services operated,  
9 funded or licensed by the department for persons affected by  
10 [mental retardation or] developmental disabilities.

11 633.020. 1. The "Missouri [Advisory Council on Mental  
12 Retardation and] Developmental Disabilities Council", consisting  
13 of up to twenty-five members, the number to be determined under  
14 the council bylaws, is hereby created to advise the division and  
15 the division director.

16 2. The members of the Missouri planning council for  
17 developmental disabilities, created by executive order of the  
18 governor on October 26, 1979, for the remainder of their  
19 appointed terms, and up to five persons to be appointed by the  
20 director, for staggered terms of three years each, shall act as  
21 such advisory body. At the expiration of the term of each  
22 member, the director shall appoint an individual who shall hold  
23 office for a term of three years. At least one-half of the  
24 members shall be consumers. Other members shall have  
25 professional, research or personal interest in [mental  
26 retardation] intellectual disabilities and developmental  
27 disabilities. At least one member shall be a manager of or a  
28 member of the board of directors of a sheltered workshop as

1 defined in section 178.900. No more than one-fourth of the  
2 members shall be vendors or members of boards of directors,  
3 employees or officers of vendors, or any of their spouses, if  
4 such vendors receive more than fifteen hundred dollars under  
5 contract with the department; except that members of boards of  
6 directors of not-for-profit corporations shall not be considered  
7 members of board of directors of vendors under this subsection.

8 3. Meetings shall be held at least every ninety days or at  
9 the call of the division director or the council chairman, who  
10 shall be elected by the council.

11 4. Each member shall be reimbursed for reasonable and  
12 necessary expenses, including travel expenses, pursuant to  
13 department travel regulations, actually incurred in the  
14 performance of his official duties.

15 5. The council may be divided into subcouncils in  
16 accordance with its bylaws.

17 6. The council shall collaborate with the department in  
18 developing and administering a state plan for [mental retardation  
19 and] intellectual disabilities and developmental disabilities  
20 services.

21 7. No member of a state advisory council may participate in  
22 or seek to influence a decision or vote of the council if the  
23 member would be directly involved with the matter or if he would  
24 derive income from it. A violation of the prohibition contained  
25 herein shall be grounds for a person to be removed as a member of  
26 the council by the director.

27 8. The council shall be advisory and shall:

28 (1) Promote meetings and programs for the discussion of

1 reducing the debilitating effects of [mental retardation and]  
2 intellectual disabilities and developmental disabilities and  
3 disseminate information in cooperation with any other department,  
4 agency or entity on the prevention, evaluation, care, treatment  
5 and habilitation for persons affected by [mental retardation or]  
6 intellectual disabilities and developmental disabilities;

7 (2) Study and review current prevention, evaluation, care,  
8 treatment and rehabilitation technologies and recommend  
9 appropriate preparation, training, retraining and distribution of  
10 manpower and resources in the provision of services to [mentally  
11 retarded or developmentally disabled] persons with an  
12 intellectual disability or a developmental disability through  
13 private and public residential facilities, day programs and other  
14 specialized services;

15 (3) Recommend what specific methods, means and procedures  
16 should be adopted to improve and upgrade the department's [mental  
17 retardation and] intellectual disabilities and developmental  
18 disabilities service delivery system for citizens of this state;

19 (4) Participate in developing and disseminating criteria  
20 and standards to qualify mental retardation or developmental  
21 disability residential facilities, day programs and other  
22 specialized services in this state for funding or licensing, or  
23 both, by the department.

24 633.029. All persons determined eligible for services  
25 provided by the division of [mental retardation and]  
26 developmental disabilities prior to January 1, 1991, shall be  
27 eligible for services on the basis of their earlier determination  
28 of eligibility without regard to their eligibility status under

1 the definition of developmental disability contained in section  
2 630.005.

3 633.030. 1. The department shall prepare a state plan to  
4 secure coordinated [mental retardation and] intellectual  
5 disabilities and developmental disabilities habilitation services  
6 accessible to persons in need of them in defined geographic  
7 areas, which plan shall be reviewed and revised annually.

8 2. The state plan shall include, but not be limited to, the  
9 following:

10 (1) A needs-assessment of the state to determine  
11 underserved, unserved and inappropriately served populations and  
12 areas;

13 (2) Statements of short-term and long-term goals for  
14 meeting the needs of currently served, underserved, unserved or  
15 inappropriately served populations and areas of the state;

16 (3) An inventory of existing private and public residential  
17 facilities, day programs and other service providers offering  
18 [mental retardation or] intellectual disability or developmental  
19 disability evaluation and habilitation services;

20 (4) Evaluations of the effects of habilitation programs;

21 (5) Descriptions of the following:

22 (a) Methods for assuring active consumer-oriented citizen  
23 participation throughout the system;

24 (b) Strategies and procedures for encouraging, coordinating  
25 and integrating community-based services, wherever practicable,  
26 to avoid duplication by private, not-for-profit and public state  
27 and community-based providers of services;

28 (c) Methods for monitoring the quality of evaluation and

1 habilitation services funded by the state;

2 (d) Rules which set standards for construction, staffing,  
3 operations and programs, as appropriate, for any public or  
4 private entity to meet for receiving state licensing,  
5 certification or funding; and

6 (e) Plans for addressing the particular [mental retardation  
7 and] intellectual disability or developmental disability service  
8 needs of each region, including special strategies for rural and  
9 urban unserved, underserved or inappropriately served populations  
10 in areas of the state.

11 3. In preparing the state plan, the department shall take  
12 into consideration its regional plans.

13 633.045. 1. Any regional advisory councils established  
14 under section 633.040 shall participate in the preparation of  
15 regional plans and annually review, advise on and recommend them  
16 before they are transmitted to the state advisory council and the  
17 division director. The plans shall include at least the  
18 following:

19 (1) An inventory of existing residential facilities, day  
20 programs and specialized services for [the mentally retarded and  
21 developmentally disabled] persons with an intellectual disability  
22 or a developmental disability;

23 (2) An assessment of needs, including any special target  
24 populations, of unserved, underserved or inappropriately served  
25 persons;

26 (3) A statement of specific goals for the region.

27 2. Any staff of such regional advisory councils shall be  
28 provided only from funds appropriated specifically for that



1 purpose. This subsection shall become effective July 1, 1981.

2 633.050. 1. In addition to such other advisory functions  
3 as may be agreed upon with the division, the regional advisory  
4 councils shall review and advise on programs and policies of the  
5 regional centers. The councils shall review, advise on, and  
6 recommend regional program budgets and shall report to the  
7 division director their findings as to their conformity with the  
8 regional plans before they are transmitted to the department to  
9 be considered for inclusion in the department budget request.

10 2. The regional councils may advise the department, the  
11 division and the regional centers on methods of operation and  
12 service delivery which will assure comprehensive services with  
13 the minimum amount of duplication, fragmentation and unnecessary  
14 expenditures. In making such proposals, the councils shall  
15 consider the most appropriate use of existing agencies and  
16 professional personnel providing residential facilities, day  
17 programs and other specialized services for [the mentally  
18 retarded and developmentally disabled] persons with an  
19 intellectual disability or developmental disability in their  
20 regions.

21 3. The duties of the regional advisory councils shall  
22 include:

23 (1) Determining the disbursement of the cash stipend as  
24 established in section 633.180 and the family support loan as  
25 established in section 633.185;

26 (2) Providing direction and assistance to the regional  
27 center in the development of a family support plan based upon the  
28 needs in the region;

- 1           (3) Approval of the regional family support plan;
- 2           (4) Monitoring the implementation of the family support
- 3 plan;
- 4           (5) Providing an annual written report to the department of
- 5 mental health regarding the activities of the family support
- 6 council.

7           633.110. 1. Any person suspected to [be mentally retarded  
8 or developmentally disabled] have an intellectual disability or  
9 developmental disability shall be eligible for initial diagnostic  
10 and counseling services through the regional centers.

11           2. If it is determined by a regional center through a  
12 comprehensive evaluation that a person [is mentally retarded or  
13 developmentally disabled] has an intellectual disability or a  
14 developmental disability so as to require the provision of  
15 services, and if such person, such person's parent, if the person  
16 is a minor, or legal guardian, requests that he be registered as  
17 a client of a regional center, the regional center shall, within  
18 the limits of available resources, secure a comprehensive program  
19 of any necessary services for such person. Such services may  
20 include, but need not be limited to, the following:

- 21           (1) Diagnosis and evaluation;
- 22           (2) Counseling;
- 23           (3) Respite care;
- 24           (4) Recreation;
- 25           (5) Habilitation;
- 26           (6) Training;
- 27           (7) Vocational habilitation;
- 28           (8) Residential care;

- (9) Homemaker services;
- (10) Developmental day care;
- (11) Sheltered workshops;
- (12) Referral to appropriate services;
- (13) Placement;
- (14) Transportation.

3. In securing the comprehensive program of services, the regional centers shall involve the client, his family or his legal guardian in decisions affecting his care, habilitation, placement or referral. Nothing in this chapter shall be construed as authorizing the care, treatment, habilitation, referral or placement of any [mentally retarded or developmentally disabled] person with an intellectual disability or developmental disability to any residential facility, day program or other specialized service without the written consent of the client, his parent, if he is a minor, or his legal guardian, unless such care, treatment, habilitation, referral, or placement is authorized pursuant to an order of the court under the provisions of chapter 475.

633.115. The regional center shall secure services for its clients in the least restrictive environment consistent with individualized habilitation plans. As a result of its comprehensive evaluation, the regional center shall utilize the following entities to secure services:

- (1) Agencies serving persons not diagnosed [as mentally retarded or developmentally disabled] with an intellectual disability or developmental disability in which the client would be eligible to receive available services or in which the

1 services could be made available to the client through the  
2 purchase of assistive or supportive services;

3 (2) Agencies serving [mentally retarded or developmentally  
4 disabled] persons with an intellectual disability or  
5 developmental disability in which the client would be eligible to  
6 receive available services or in which services could be made  
7 available to the client through the purchase of assistive or  
8 supportive services;

9 (3) The regional center on a day-program basis;

10 (4) The regional center for short-term residential  
11 services, not to exceed six months, unless expressly authorized  
12 for a longer period by the division director;

13 (5) A residential facility licensed through the department  
14 placement program, but not operated by the department;

15 (6) A [mental retardation] developmental disability  
16 facility operated by the department for clients who are  
17 [developmentally disabled or mentally retarded] persons with an  
18 intellectual disability or developmental disability.

19 633.120. 1. A regional center may refer a client for  
20 admission to a [mental retardation] developmental disability  
21 facility only if determined by a comprehensive evaluation that:

22 (1) The person has a developmental disability;

23 (2) Protective services are required to guarantee the  
24 health, safety or mental well-being of the person;

25 (3) Placement in a [mental retardation] developmental  
26 disability facility is in the best interests of the person; and

27 (4) All other less restrictive services, including but not  
28 limited to family support and supported living, have been

1 explored and found inadequate to prevent placement in a [mental  
2 retardation] developmental disability facility.

3 2. The regional center shall forward its comprehensive  
4 evaluation containing the determination under subsection 1 of  
5 this section and such other records as are necessary to enable  
6 the [mental retardation] developmental disability facility to  
7 determine whether to accept or reject the referral.

8 3. The head of a private [mental retardation] developmental  
9 disability facility may, and the head of a department [mental  
10 retardation] developmental disability facility shall, admit the  
11 person if, as a result of reviewing the evaluation, the head of  
12 the [mental retardation] developmental disability facility  
13 determines that the client is appropriate for admission as a  
14 resident and suitable accommodations are available. If the head  
15 of a department [mental retardation] developmental disability  
16 facility rejects the referral, the regional center may appeal the  
17 rejection to the division director. After consulting with the  
18 head of the referring regional center and the head of the  
19 department [mental retardation] developmental disability  
20 facility, the division director shall determine the appropriate  
21 disposition of the client.

22 4. The person to be admitted, if competent, his parent or  
23 legal custodian, if he is a minor, or his guardian, as authorized  
24 by a court, shall consent to the admission unless otherwise  
25 ordered by a court.

26 5. The head of a [mental retardation] developmental  
27 disability facility shall have an individualized habilitation  
28 plan for each resident within thirty days of the resident's

1 admission. Such plan shall include a statement regarding the  
2 resident's anticipated length of stay in the facility and the  
3 feasibility of least restrictive alternatives.

4 6. If procedures are initiated under chapter 475 for the  
5 appointment of a guardian for a resident of a department [mental  
6 retardation] developmental disability facility, the referral  
7 procedure under this section shall not apply.

8 633.125. 1. A resident admitted to a [mental retardation]  
9 developmental disability facility pursuant to section 633.120  
10 shall be discharged immediately when the person who applied for  
11 his admission requests the release orally, in writing or  
12 otherwise from the head of the [mental retardation] developmental  
13 disability facility; except, that if the head of the [mental  
14 retardation] developmental disability facility regards the  
15 resident as presenting a likelihood of serious harm to himself or  
16 others, the head of the facility may initiate involuntary  
17 detention procedures pursuant to chapter 632, if appropriate, or  
18 any individual, including the head of the facility or the mental  
19 health coordinator may initiate guardianship proceedings and, if  
20 appropriate, obtain an emergency commitment order pursuant to  
21 chapter 475.

22 2. A resident shall be discharged from a department [mental  
23 retardation] developmental disability facility if it is  
24 determined in a comprehensive evaluation or periodic review that  
25 the person is not [mentally retarded or] intellectually disabled  
26 or developmentally disabled, and if the resident, parent, if a  
27 minor, or guardian consents to the discharge. If consent is not  
28 obtained, the head of the facility shall initiate appeal

1 proceedings under section 633.135, before a resident can be  
2 discharged.

3 3. A resident shall either be discharged from a department  
4 [mental retardation] developmental disability facility or shall  
5 be referred to a regional center for placement in a least  
6 restrictive environment pursuant to section 630.610, if it is  
7 determined in a comprehensive evaluation or periodic review that  
8 the following criteria exist:

9 (1) The resident's condition is not of such a nature that  
10 for the protection or adequate care of the resident or others the  
11 resident needs department residential habilitation or other  
12 services;

13 (2) The [mental retardation] developmental disability  
14 facility does not offer a program which best meets the resident's  
15 needs; or

16 (3) The [mental retardation] developmental disability  
17 facility does not provide the least restrictive environment  
18 feasible. A resident may not be discharged without his consent  
19 or the consent of his parent, if he is a minor, or guardian  
20 unless proceedings have been completed under section 633.135.

21 4. After a resident's discharge pursuant to subsection 3 of  
22 this section, the resident shall be referred to an appropriate  
23 regional center for assistance in obtaining any necessary  
24 services.

25 633.130. 1. At least once every one hundred eighty days,  
26 the head of each [mental retardation] developmental disability  
27 facility shall cause the condition and status of each resident to  
28 be reviewed and evaluated for the purpose of determining whether

1 the resident needs further residential habilitation, placement in  
2 the least restrictive environment or discharge.

3 2. The head of the facility shall initiate proceedings to  
4 discharge any resident whose continued residential habilitation  
5 is no longer appropriate; except, that the head of the facility  
6 may refer the resident to the appropriate regional center for  
7 placement pursuant to section 630.610.

8 3. A copy of the evaluation and individualized habilitation  
9 plan shall be sent to any court having jurisdiction over the  
10 resident.

11 633.135. 1. If a resident, or his parent if he is a minor,  
12 or his legal guardian refuses to consent to the proposed  
13 placement or to discharge from the facility, the head of the  
14 [mental retardation] developmental disability facility may  
15 petition the director of the division to determine whether the  
16 proposed placement is appropriate under sections 630.610, 630.615  
17 and 630.620 or whether the proposed discharge is appropriate  
18 under sections 633.120, 633.125 and 633.130.

19 2. The division director shall refer the petition to the  
20 chairman of the state advisory council who shall appoint and  
21 convene a review panel composed of three members. At least one  
22 member of the panel shall be a parent or guardian of a resident  
23 who resides in a department [mental retardation] developmental  
24 disability facility. The remaining members of the panel shall be  
25 persons who are from nongovernmental organizations or groups  
26 concerned with the prevention of [mental retardation]  
27 intellectual disability or developmental disability, evaluation,  
28 care and habilitation of [mentally retarded] intellectually



1 disabled or developmentally disabled persons and who are familiar  
2 with services and service needs of [mentally retarded]  
3 intellectually disabled or developmentally disabled persons in  
4 facilities operated by the department. No member of the panel  
5 shall be an officer or employee of the department.

6 3. After prompt notice and hearing, the panel shall  
7 determine whether the proposed placement is appropriate under  
8 sections 630.610, 630.615 and 630.620 or whether the proposed  
9 discharge is appropriate under sections 633.120, 633.125 and  
10 633.130. The hearing shall be electronically recorded for  
11 purposes of obtaining a transcript. The council shall forward  
12 the tape recording, recommended findings of fact, conclusions of  
13 law and decision to the director who shall enter findings of  
14 fact, conclusions of law and the final decision. Notice of the  
15 director's decision shall be sent to the resident, or his parent  
16 if he is a minor, or his guardian, by registered mail, return  
17 receipt requested. The director shall expedite this review in  
18 all respects.

19 4. If the resident, or his parent if he is a minor, or his  
20 guardian disagrees with the decision of the director, he may  
21 appeal the decision, within thirty days after notice of the  
22 decision is sent, to the circuit court of the county where the  
23 resident, or his parent if he is a minor, or his guardian  
24 resides. The court shall review the record, proceedings and  
25 decision of the director not only under the provisions of chapter  
26 536, but also as to whether or not the head of the facility  
27 sustained his burden of proof that the proposed placement is  
28 appropriate under sections 630.110, 630.115 and 630.120, or the

1 proposed discharge is appropriate under sections 633.120, 633.125  
2 and 633.130. The court shall expedite this review in all  
3 respects. Notwithstanding the provisions of section 536.140, a  
4 court may, for good cause shown, hear and consider additional  
5 competent and material evidence.

6 5. Any resident of a [mental retardation] developmental  
7 disability facility who is age eighteen or older and who does not  
8 have a legal guardian shall not be discharged unless probate  
9 division of the circuit court approval is obtained to confirm  
10 that the resident is not in need of the care, treatment or  
11 programs now being received in the [mental retardation]  
12 developmental disability facility.

13 6. The notice and procedure for the hearing by the panel  
14 shall be in accordance with chapter 536.

15 7. In all proceedings either before the panel or before the  
16 circuit court, the burden of proof shall be upon the head of the  
17 facility to demonstrate by preponderance of evidence that the  
18 proposed placement is appropriate under the criteria set forth in  
19 sections 630.610, 630.615, and 630.120, or that the proposed  
20 discharge is appropriate under the criteria set forth in sections  
21 633.120, 633.125 and 633.130.

22 8. Pending a convening of the hearing panel and the final  
23 decision of the director or the court, if the director's decision  
24 is appealed, the department shall not place or discharge the  
25 resident from a facility except that the department may  
26 temporarily transfer such resident in the case of a medical  
27 emergency.

28 9. There shall be no disciplinary action against any state

1 employee who in good faith testifies or otherwise provides  
2 information or evidence in regard to a proposed placement or  
3 discharge.

4 633.140. 1. If any resident leaves a [mental retardation]  
5 developmental disability facility without authorization, the  
6 sheriff of the county where the resident is found shall apprehend  
7 and return him to the center if requested to do so by the head of  
8 the facility.

9 2. The head of the facility may request the return of an  
10 absent resident pursuant to subsection 1 of this section only  
11 when one of the following circumstances exists:

12 (1) The resident is a minor whose admission was applied for  
13 by his parent or legal custodian, and such parent or guardian has  
14 not requested the resident's release;

15 (2) The resident is a minor under the jurisdiction of the  
16 juvenile court;

17 (3) The resident has been declared legally incapacitated  
18 and his guardian has not requested his release; or

19 (4) The resident's condition is of such a nature that, for  
20 the protection of the resident or others, the head of the  
21 facility determines that the resident's return to the facility is  
22 necessary. Such determination shall be noted in the resident's  
23 records.

24 633.145. 1. The department may transfer a resident from  
25 one department [mental retardation] developmental disability  
26 facility to another if the division director determines that such  
27 transfer is desirable to provide the resident improved  
28 habilitation or other services, to better insure his safety and

1 welfare, or to locate him in closer proximity to his family and  
2 friends.

3 2. Transfers may only be made to a private [mental  
4 retardation] developmental disability facility pursuant to  
5 section 630.610.

6 3. Determinations by the division director pursuant to this  
7 section shall be written and noted in the resident's records.  
8 The division director shall notify the resident, his guardian or  
9 next of kin of such determination. The department shall not  
10 transfer any resident unless it receives the consent of the  
11 resident, his guardian or his parent, if the resident is a minor.

12 633.150. The head of a [mental retardation] developmental  
13 disability facility may transfer a resident to a mental health  
14 facility only under the provisions of chapter 632. The director  
15 shall order that such resident be returned to the [mental  
16 retardation] developmental disability facility when the resident  
17 is no longer in need of psychiatric care and treatment.

18 633.155. 1. The division may provide or obtain respite  
19 care for [a mentally retarded] an intellectually disabled or  
20 developmentally disabled person for respite care of up to  
21 twenty-one days which may be extended up to an additional  
22 twenty-one days for good cause shown. Any additional respite  
23 care beyond forty-two days within a one-year period shall be  
24 expressly approved by the director of the division.

25 2. Notwithstanding the provisions of section 633.120 and  
26 section 475.120, a regional center may admit [a mentally  
27 retarded] an intellectually disabled or developmentally disabled  
28 person who has been declared legally incapacitated for respite

1 care without a court order authorizing the guardian of such  
2 person to obtain such care of up to twenty-one days for good  
3 cause shown.

4 633.160. If a person presents himself, or is presented, to  
5 a regional center or department [mental retardation]  
6 developmental disability facility and is determined to be  
7 [mentally retarded or] intellectually disabled or developmentally  
8 disabled and, as a result, presents an imminent likelihood of  
9 serious harm to himself or others as defined in chapter 632, the  
10 regional center or [mental retardation] developmental disability  
11 facility may accept the person for detention for evaluation and  
12 treatment for a period not to exceed ninety-six hours under the  
13 same procedures contained in chapter 632. The head of the  
14 regional center or [mental retardation] developmental disability  
15 facility may initiate guardianship proceedings to have the person  
16 detained beyond the ninety-six hours under chapter 475, or may  
17 refer the person to a mental health facility, if the person is  
18 mentally ill, for further detention under the procedures in  
19 chapter 632.

20 633.180. 1. A family with an annual income of sixty  
21 thousand dollars or less which has a child with a developmental  
22 disability residing in the family home shall be eligible to apply  
23 for a cash stipend from the division of [mental retardation and]  
24 developmental disabilities in an amount to be determined by the  
25 regional advisory council. Such cash stipend amount shall not  
26 exceed the maximum monthly federal Supplemental Security Income  
27 payment for an individual with a developmental disability who  
28 resides alone. Such stipend shall be paid on a monthly basis and

1 shall be considered a benefit and not income to the family. The  
2 stipend shall be used to purchase goods and services for the  
3 benefit of the family member with a developmental disability.

4 Such goods and services may include, but are not limited to:

- 5 (1) Respite care;
- 6 (2) Personal and attendant care;
- 7 (3) Architectural and vehicular modifications;
- 8 (4) Health- and mental health-related costs not otherwise  
9 covered;
- 10 (5) Equipment and supplies;
- 11 (6) Specialized nutrition and clothing;
- 12 (7) Homemaker services;
- 13 (8) Transportation;
- 14 (9) Integrated community activities;
- 15 (10) Training and technical assistance; and
- 16 (11) Individual, family and group counseling.

17 2. Application for such stipend shall be made to the  
18 appropriate regional center. The regional center shall determine  
19 the eligibility of the individual to receive services from the  
20 division and the division shall forward the application to the  
21 regional advisory council to determine the amount of the stipend  
22 which may be approved by the council.

23 3. The family support program shall be funded by moneys  
24 appropriated by the general assembly; however, the family support  
25 program shall not supplant other programs funded through the  
26 division of [mental retardation and] developmental disabilities.

27 633.185. 1. The division of [mental retardation and]  
28 developmental disabilities, subject to appropriation by the

1 general assembly, is authorized to implement and administer, as  
2 part of the family support program, a family support loan  
3 program, which shall provide a family with an annual income of  
4 sixty thousand dollars or less which has an individual with a  
5 developmental disability residing in the home, with low-interest,  
6 short-term loans to purchase goods and services for the family  
7 member with a developmental disability.

8 2. Interest rates on loans made pursuant to the provisions  
9 of this section shall be no more than one percent above the prime  
10 interest rate as determined by the federal reserve system on the  
11 date the loan is approved. Loans may be for a maximum period of  
12 sixty months and the outstanding loan amount to any family may be  
13 no more than ten thousand dollars.

14 3. Applications for loans shall be made to the appropriate  
15 regional center. The regional center shall determine the  
16 eligibility of the individual to receive services from the  
17 division and the division shall forward the application to the  
18 regional advisory council to determine the amount of the loan  
19 which may be approved by the council.

20 4. There is hereby created in the state treasury for use by  
21 the department of mental health a fund to be known as the "Family  
22 Support Loan Program Fund". Moneys deposited in the fund shall  
23 be appropriated to the director of the department of mental  
24 health to be used for loans pursuant to this section. The fund  
25 shall consist of moneys appropriated by the general assembly for  
26 starting the fund and money otherwise deposited according to law.  
27 Any unexpended balance in the fund at the end of any biennium,  
28 not to exceed twice the annual loans made pursuant to this act in

1 the previous fiscal year, is exempt from the provisions of  
2 section 33.080 relating to the transfer of unexpended balances to  
3 the ordinary revenue fund.

4 633.190. 1. The division of [mental retardation and]  
5 developmental disabilities, in cooperation with the Missouri  
6 planning council for developmental disabilities, shall adopt  
7 policies and procedures and, when necessary, shall promulgate  
8 rules and regulations regarding:

- 9 (1) Program guidelines and specifications;
- 10 (2) Additional duties of the regional advisory councils;
- 11 (3) Annual evaluation of services provided by each regional  
12 center, including an assessment of consumer satisfaction;
- 13 (4) Coordination of the family support program and the use  
14 of its funds throughout the state and within each region, with  
15 other publicly funded programs, including Medicaid;
- 16 (5) Methodology for allocating resources to families with  
17 the funds available;
- 18 (6) Resolution of grievances filed by families pertaining  
19 to actions of the family support program;
- 20 (7) Methodology for outreach and education.

21 2. No rule or portion of a rule promulgated under the  
22 authority of this chapter shall become effective unless it has  
23 been promulgated pursuant to the provisions of section 536.024.

24 633.210. 1. There is hereby established in the department  
25 of mental health within the division of [mental retardation and]  
26 developmental disabilities, an "Office of Autism Services". The  
27 office of autism services, under the supervision of the director  
28 of the division of [mental retardation and] developmental



1 disabilities, shall provide leadership in program development for  
2 children and adults with autism spectrum disorders, to include  
3 establishment of program standards and coordination of program  
4 capacity.

5 2. For purposes of this section, the term "autism spectrum  
6 disorder" shall be defined as in standard diagnostic criteria for  
7 pervasive developmental disorder, to include: autistic disorder;  
8 Asperger's syndrome; pervasive developmental disorder-not  
9 otherwise specified; childhood disintegrative disorder; and  
10 Rett's syndrome.

11 633.300. 1. All group homes and [mental retardation]  
12 developmental disability facilities as defined in section 633.005  
13 shall be subject to all applicable federal and state laws,  
14 regulations, and monitoring, including but not limited to  
15 sections 630.705 to 630.805.

16 2. All mental health workers, as defined in subdivision (8)  
17 of section 210.900, shall be subject to the same training  
18 requirements established for state mental health workers with  
19 comparable positions in public group homes and mental health  
20 facilities. Such required training shall be paid for by the  
21 employer.

22 3. Group homes and [mental retardation] developmental  
23 disability facilities shall be subject to the same medical errors  
24 reporting requirements of other mental health facilities and  
25 group homes.

26 4. The department shall promulgate rules or amend existing  
27 rules to implement the provisions of this section. Any rule or  
28 portion of a rule, as that term is defined in section 536.010,

1 that is created under the authority delegated in this section  
2 shall become effective only if it complies with and is subject to  
3 all of the provisions of chapter 536 and, if applicable, section  
4 536.028. This section and chapter 536 are nonseverable and if  
5 any of the powers vested with the general assembly pursuant to  
6 chapter 536 to review, to delay the effective date, or to  
7 disapprove and annul a rule are subsequently held  
8 unconstitutional, then the grant of rulemaking authority and any  
9 rule proposed or adopted after August 28, 2008, shall be invalid  
10 and void.

11 633.303. Any employee, including supervisory personnel, of  
12 a group home or [mental retardation] developmental disability  
13 facility who has been placed on the disqualification registry  
14 pursuant to section 630.170 shall be terminated. Such  
15 requirements shall be specified in contracts between the  
16 department and providers pursuant to this section.

17 633.309. The department of mental health shall not transfer  
18 any person to any group home or [mental retardation]  
19 developmental disability facility that has received a notice of  
20 noncompliance, until there is an approved plan of correction  
21 pursuant to sections 630.745 and 630.750.